DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

7 September 2000

Thursday, 7 September 2000

Thursday, 7 September 2000

The Assembly met at 10.30 am.

(Quorum formed.)

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

PETITION

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

By **Mr Corbell**, from 97 residents, requesting the Assembly to introduce a 40-kilometre per hour speed zone from 8 am to 6 pm, Monday to Friday, outside the Peter Pan Kindergarten Childcare Centre in Curtin.

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

Peter Pan Kindergarten Childcare Centre

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the current speed limit on Carruthers Street, Curtin, where Peter Pan Kindergarten Childcare Centre is located, is 60km/hour. 40km/hour speed zones have been introduced nationwide for schools in recognition that stopping distances are greatly reduced by decreasing speed.
>
> Your petitioners therefore request the Assembly to introduce a 40km/hour speed zone from 8am to 6pm, Monday to Friday outside the Peter Pan Kindergarten Childcare Centre on Carruthers Street, Curtin.

Petition received.

ABSENCE OF SPEAKER

The Clerk, pursuant to standing order 6, informed the Assembly that the Speaker would be absent for the period 9 September to 8 October 2000 and that in that period the Deputy Speaker, Mr Wood, would, as Acting Speaker, perform the duties of the Speaker.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Alteration to Reporting Date

MR HIRD (10.33): Mr Speaker, I seek leave of the house to move a motion in respect of the Standing Committee on Planning and Urban Services reporting on a inquiry into the possible improper influence of a witness.

Leave granted.

MR HIRD: The rationale behind this is that the witness in question has been overseas and wishes to give information which the committee has sought from that witness. I understand that it is forthcoming, and I would ask for an extension of the reporting date to no later than the end of October this year.

MR SPEAKER: Would you move the motion, Mr Hird, please.

MR HIRD: I move:

> That the resolution of the Assembly of 25 May 2000, as amended on 29 June 2000, referring the allegations of the possible improper influence of a witness to the Standing Committee on Planning and Urban Services for inquiry and report, be amended by omitting "by the last sitting day of September 2000" and substituting "by the last sitting day of October 2000".

Question resolved in the affirmative.

DOMESTIC ANIMALS BILL 2000

Mr Smyth, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR SMYTH (Minister for Urban Services) (10.35): I move:

> That this bill be agreed to in principle.

Mr Speaker, it gives me immense satisfaction to bring to the Assembly today a finalised package of comprehensive initiatives in the control of animals in the territory. I am tabling today the completed and amended strategic companion animal management package, or SCAMP, as it is otherwise known.

I initially tabled SCAMP for community consultation in October 1999. The consultation period elicited almost 1,000 responses, and I am extremely satisfied with the way in which the general public and key interest groups have responded to the proposals contained within that package. Many valid concerns were raised during consultation, and most were also able to be resolved. I believe that this package is now tuned to harmonise with the unique lifestyle that we as Canberrans enjoy.

SCAMP includes the Domestic Animals Bill 2000. A number of measure contained in the original exposure draft have been modified, and I will now address these areas. The registration system for dogs has been overhauled to increase compliance rates. Steps to achieve this include the registration of puppies at an earlier age and changes to the current registration fee structure. Upon the implementation of this bill, it will be compulsory but free to register a puppy at eight weeks of age. This change has allowed the government to address legitimate concerns from both the pet industry and dog breeders, as the initial registration will have no associated charge.

The bill introduces a new requirement to identify cats and dogs by various means, including microchipping. This measure will ensure the timely notification and/or return of an animal to its rightful owner should it be lost. Any dog or cat born or acquired after the commencement of the act is to be desexed unless the owner has applied for, and been granted, a permit to keep their pet sexually entire. This action will ensure a reduction in the number of unwanted animals that are euthanased annually at veterinary practices, shelters and the ACT government pound.

A new scheme has been incorporated to address serious issues with animal nuisance. Changes have been made to provide inspectors the power to issue abatement notices to keepers of animals causing nuisance and to make a failure to comply with an abatement notice an offence.

In line with the recommendations from the ACT urban cat management strategy, a power for the minister to declare a cat curfew in areas where cats pose a conservation threat to native species has been incorporated into the bill. This action will ensure that any possible future threat to native species by cat predation will be able to be effectively addressed.

Amendments have also been made to provisions relating to dangerous dogs. Accordingly, the registrar will now have the ability to issue a dangerous dog licence, subject to both the dog and the keeper completing an approved obedience or behavioural modification course. In addition, the registrar will have the ability to sell a declared dangerous dog to a member of the general public if that member is prepared to apply for a dangerous dog licence and comply with any additional conditions placed on that licence.

Amendments have been made to the requirements for people to remove any droppings deposited by their dog in a public place or in a stormwater drain or channel, whether on public or private land. People with the responsibility for walking a dog outside the boundaries of its usual enclosure will be required to carry packaging, such as a plastic bag, suitable for the hygienic disposal of any faeces dropped by the dog. These packages can be disposed of at any authorised rubbish bin. Additional bins will be installed in popular dog exercise areas once it has been established that sufficient need exists.

In order to address concerns by residents of Canberra, I am also pleased to announce that by the time this legislation is debated appropriate dog exercise areas will have been gazetted in Gungahlin. My department advise that these exercise areas will be in place by the middle of October this year.

Measures relating to attacking or harassing dogs have been amended based on comments received from animal welfare organisations. The amendments address concerns raised in relation to the specific offence and the equity in exclusion from the provisions.

The Domestic Animals Bill is supported by complementary documents. These are part of the SCAMP package and have been recast to reflect the changes in the legislation. I am also pleased to table the finalised ACT urban cat management strategy, the charter for responsible dog ownership and the charter for responsible cat ownership. I am happy to arrange a full briefing for any member of the Assembly on the intricacies of the Domestic Animals Bill 2000.

The package promotes responsible pet ownership, public safety and urban amenity. That is quite a range of outcomes to keep in balance, and I believe that we have successfully achieved that.

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

ANIMAL WELFARE AMENDMENT BILL 2000

Mr Smyth, pursuant to notice, presented the bill, its explanatory memorandum and the following associated papers:

> Draft Domestic Animals Regulations and explanatory statement;
> Strategic Companion Animals Management Package, comprising the:
> ACT Urban Cat Management Strategy;
> Charter for Responsible Dog Ownership;
> Charter for Responsible Cat Ownership; and
> Code of Practice for the Sale of Animals in the ACT.

Title read by Clerk.

MR SMYTH (Minister for Urban Services) (10.42): I move:

> That this bill be agreed to in principle.

Mr Speaker, as part of the strategic companion animals management package, I have also announced a number of changes to the Animal Welfare Act 1992. I am extremely pleased to bring to the Assembly today the Animal Welfare Amendment Bill 2000.

As I stated in my previous speech, I initially tabled SCAMP for community consultation in October 1999. The consultation period elicited almost 1,000 responses. The majority of these were specifically related to the issue of tail docking of puppies. I am now pleased to table the Animal Welfare Amendment Bill 2000, and I will take this opportunity to present the proposed changes.

The first is an amendment to the scope of the act, widening the definition of "animal". It is proposed to expand the current definition to include a live cephalopod, such as cuttlefish or octopus, as well as a live crustacean that is intended for human consumption. This will help improve the welfare of these animals kept by retailers and restaurants.

The definition of what constitutes a poison has also been expanded. Now it will be an offence under the Animal Welfare Act to poison a domestic or native animal by placing a substance such as glass in something such as meat that could be consumed by, and kill, an animal.

It will be compulsory under the Animal Welfare Act for a person carrying a dog on the open back of a moving vehicle to restrain the dog in such a way that will prevent it from falling or jumping from the back of the vehicle. The exception to this provision is any dog that is being used to work livestock.

Mr Speaker, the most significant amendment to this legislation provides for an offence for a person, other than a veterinary surgeon, to remove the tail of a puppy. A veterinary surgeon may remove a dog's tail if there is a therapeutic reason for doing so. As I have stated, this area of SCAMP received by far the greatest number of comments. The ACT Canine Association is opposed to this ban. However, many well-referenced submissions lodged by veterinarians provided compelling evidence to ensure that this currently common practice is outlawed in the ACT, as there is no sound basis to recommend its continuation.

On this animal welfare measure, the ACT will lead the way in Australian. I throw down the gauntlet to my counterparts in other jurisdictions and challenge them to match the ACT on this matter. This is one area of welfare legislation in which there should be common provisions in all jurisdictions.

Amendments have been made to lift the requirement for veterinary inspections to be carried out on common animals kept in preschools and primary schools. This will facilitate the teaching of responsible pet ownership while freeing up the resources of the ACT Veterinary Service to undertake more relevant work.

The provisions for research and teaching have been amended to recognise the research program appropriately authorised by an interstate animal ethics committee. This step will allow for the more timely and coordinated conduct of a research program undertaken at locations in different jurisdictions.

The power of entry, search and inspection for inspectors and authorised officers under the Animal Welfare Act has been amended. Experience has shown that there is no need for seven days notification to be given to the occupier of premises before conducting an inspection. This addresses serious welfare concerns that rightly existed under the old legislation.

In addition to the above amendments, the opportunity has been taken to bring the Animal Welfare Act into line with current drafting policies. The Domestic Animals Bill and amendments to the Animal Welfare Act are supported by complementary documents. These were part of SCAMP and have been recast to reflect changes to the legislation.

Mr Speaker, as part of the amendments to the Animal Welfare Act 1992, I am also pleased to table the finalised code of practice for the sale of animals in the ACT. This legislation and the accompanying code of practice contain many innovative measures that again see the ACT leading Australia in animal welfare issues. My offer for any

member of the Assembly to receive a full briefing on the measures within this package also extends to the animal welfare amendments. This legislation promotes responsible pet ownership, animal sales and animal welfare. That is quite a range of outcomes to keep in balance, and I believe that we have achieved that. This package is one where we should definitely allow the tail to wag the dog.

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

ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) BILL 2000

Mr Smyth, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR SMYTH (Minister for Urban Services) (10.47): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Road Transport (Public Passenger Services) Bill provides for a streamlined regulatory framework for the provision of public passenger bus services in the ACT in one piece of legislation. This approach is consistent with the government's competition neutrality policies and legislative reform obligations. The bill, previously known as the Public Passenger Transport Bill, was tabled as an exposure draft in December 1999. It has since been the subject of a public discussion paper and extensive industry and intergovernmental consultation.

The bill covers all public passenger services using buses where a fare is charged, for example by ACTION, private operators such as Transborder and all tour and charter operators. It does not cover services that are not available for use by the general public, services such as those provided by organisations for their own use—for example, courtesy coaches provided by car repair centres.

Operators of public and privately owned passenger services, for the first time in the ACT, will be subject to the same rules and regulations and have the same rights and obligations. The legislative framework makes provision for the later inclusion of taxi and hire-car vehicles, pending the outcome of the current national competition policy review of these industries.

The bill brings ACT passenger transport legislation more into line with that operating in New South Wales and will facilitate agreement of cross-border arrangements, particularly for ACT-based small tourism operators.

Developed in consultation with industry, the bill will introduce accreditation standards for all bus operators. No operator can commence services without accreditation. Accreditation standards will ensure that the industry maintains high-quality services and safety standards, while adopting sound commercial practice. The accreditation arrangements will ensure that ACT bus operators are well placed should national schemes for mutual recognition of bus operators be introduced in the future. To gain accreditation, operators will be required to meet standards similar to those that apply in

other jurisdictions. A modest fee regime will cover the cost of safety and procedure audits required to monitor these standards. These fees will be reasonable.

The proposed contents of the standards and regulations were made available to the public as a discussion paper. Primarily aimed at the safe operation of buses on the roads, they also include such matters as requiring operators to take reasonable steps to ensure that drivers comply with driving hour restrictions and to make available timetables and brochures setting out the terms of their service.

The standards also require, as a minimum, that the operators maintain a telephone service between the hours of 9 am and 5 pm on weekdays in order to answer any customer complaints, timetable inquires and lost property inquiries.

Regulation will deal with matters that ensure passenger safety and revenue protection for the operators. For example, it will be an offence for a person to engage in offensive or threatening behaviour on a bus or to participate in fare evasion.

Mr Speaker, under the provisions of the bill, it will be at the discretion of the Road Transport Authority to audit operators at any time to determine compliance with the accreditation requirements and to maintain a service quality and public safety. If the operator does not comply with accreditation standards, the authority has the power to suspend, cancel or vary the accreditation.

The bill allows the government to enter into contracts to provide regular public passenger bus services in the ACT. These contracts will be for route services that pick up and set down passengers in the ACT, services such as those currently provided by ACTION and Deane's Bus Lines. Services such as charter and tourist services will not be required to sign a contract with the government but will still be subject to accreditation standards and the regulations. Bus operators on ACT government contracts will be required to meet minimum service levels. The issued contracts will also cover matters such as service characteristics, processes and vehicles the operators would employ, the timeliness of the services, special fares and insurance requirements. The contract will allow these matters to be balanced in the interests of the consumer.

Public transport bus services provided by ACTION within the ACT were declared a regulated industry under the Independent Pricing and Regulatory Commission Act 1997. The proposed regulation maintains the power of the minister to determine fares within the price direction provided by the Independent Competition and Regulatory Commissioner. Fare concessions will, of course, continue to be provided for eligible persons.

The Road Transport (Public Passenger Services) Bill contains the most significant changes to passenger transport services for many years and provides the framework for safer and more reliable passenger services and a more efficient public transport industry.

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

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2000 (NO 2)

Mr Smyth, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR SMYTH (Minister for Urban Services) (10.52): I move:

> That this bill be agreed to in principle.

The Road Transport Legislation Amendment Bill is a result of the Road Transport Public Passenger Services Bill, in that many amendments were required to a number of other acts and regulations. Further, the opportunity has been taken to include other changes required to implement other outstanding transport-related matters, including driving offences.

A number of pieces of the road transport legislation have been amended in respect of the phrase "found guilty". It has been necessary to clarify that when a court deals with a person for a serious driving offence no licence disqualification applies if the court deals with the person under section 448 or 556A of the Crimes Act 1900 or section 96 of the Children and Young People Act 1999.

While the government reinforced this position during the debate for the introduction of the road transport legislation in December 1999, there is divided opinion among members of the legal profession about the effect on licence disqualification of matters dealt with in this way. As a result, the government considers it prudent that this issue be clarified once and for all. This bill omits any reference to "found guilty" in serious driving offence provisions except for repeat offenders.

Two effects flow from these changes. First, the automatic disqualification periods will not apply if a person is found guilty of an offence but not convicted. They will only apply if the court records a conviction against the person. This will be the case whether the person is a first offender or a repeat offender. Second, if a court does not record a conviction for the first offence but finds the person guilty and the person reoffends within five years and is convicted for the second offence, the person is then treated as a repeat offender, with a higher maximum penalty.

The Interpretation Act 1967 is also amended to clarify that the meaning of "found guilty" includes when a court deals with a person under section 448 or 556A of the Crimes Act or section 96 of the Children and Young People Act 1999.

On another issue, the Road Transport (Safety and Traffic Management) Act 1999 has been amended to allow for recording mediums for camera detection devices, other than photographs and magneto-optical WORM drives which are specified in the primary legislation, to be prescribed in the regulations. This is required to provide a more flexible approach regarding the introduction of the red-light cameras.

Finally, there have been minor housekeeping amendments to the road transport legislation, including some renumbering and the specification of the end of transitional provisions as calendar dates rather than in the form "in two years", et cetera.

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

STANDING COMMITTEES
Reference—Annual and Financial Reports 1999-2000

MS CARNELL (Chief Minister) (10.57): I move:

> That notwithstanding the resolution of the Assembly of 28 April 1998 establishing standing committees:
>
> (1) the annual and financial reports for the financial year 1999-2000 presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 1995* stand referred, on presentation, to the relevant standing committee for inquiry and report by the first sitting day in February 2001;
>
> (2) if the Assembly is not sitting when a committee completes it inquiry, that committee may send the relevant report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, publication and circulation;
>
> (3) that, notwithstanding standing order 229, only one standing committee may meet for the consideration of the inquiry into the 1999-2000 Annual and Financial Reports at any given period of time; and
>
> (4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Mr Speaker, under the Annual Reports (Government Agencies) Act 1995, all financial year reports should be presented to ministers by 8 September 2000 and then tabled in the Legislative Assembly within six days. This year reports should be tabled within the sitting weeks of 10 to 12 October and 17 to 19 October.

This motion is necessary to provide the basis for referral of annual reports to the appropriate Assembly committees. It takes the same approach as we took last year. Portfolio committees develop expertise in particular areas and are the best committees for considering annual reports from each portfolio.

This motion also includes a requirement, introduced last year, that no standing committee meet at the same time as another one is meeting. This simply recognises that some members sit on more than one committee.

Question resolved in the affirmative.

EXECUTIVE BUSINESS—PRECEDENCE

Ordered that Executive business be called on.

ELECTORAL AMENDMENT BILL 2000

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

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.58): Mr Speaker, Labor accepts the basic intent of this bill, that is, to ensure that as far as practicable the requirements for reporting amounts received by Independent MLAs are the same as the requirements placed on MLAs who are members of parties. Section 230 of the Electoral Act requires Independent MLAs and parties to give the Electoral Commissioner a return disclosing amounts received, amounts paid, and the outstanding amounts of debts incurred each financial year. Returns are to be lodged within 16 weeks after the end of each financial year. Both amounts and the source or destination of transactions are required.

In looking at the government's proposal, the first thing to say is that the government is addressing only one of the three elements in the annual returns, namely, insofar as that requirement affects Independent MLAs. Independent MLAs and the parties will continue to disclose as previously amounts they have paid and debts incurred. Parties will continue to disclose as previously amounts received.

Just what is covered by the term "amounts received" is not defined in the legislation, but the amendment gives us some examples and lists interest on bank accounts, dividends on shares, and salary and other benefits paid as members of this Assembly. I accept that we could all come up with some other examples, such as income from businesses owned, superannuation payments or payments for other employment. Gifts, too, come within the ambit of amounts received. The Electoral Act defines a gift as a disposition of property without consideration of money. The act and the government's bill exclude from disclosure gifts received in a private capacity.

So, Mr Speaker, what is the effect of the government's bill? It will require Independent MLAs to disclose gifts related to the members position in this Assembly. These members will be excused from reporting payments of the kind I listed earlier.

As I said earlier, Labor supports the intent of the legislation insofar as it goes, that is, to put party members and Independent members on the same footing. It may not always be the case that these members should be on the same footing, however, and there is another debate that could be had about that. Being Independent, or being seen as Independent, gives particular benefits, and it may well be that in some circumstances it imposes particular costs. In this case Labor does believe that independent party members should be on the same footing, but we do not agree, however, that parity can be achieved only in the way that the Attorney has suggested through this legislation.

We will propose therefore, Mr Speaker, that rather than reduce the obligation of Independent members we should increase the obligation on all members of the Assembly, including party members. I foreshadow that I will move amendments to require all MLAs to disclose all amounts received by them, and also amounts paid and debts incurred by them. I will also propose an amendment to address the commencement date of the bill. I will move those amendments at a more appropriate occasion.

As I said, the Labor Party accepts the proposal that everybody in this place should be subjected to the same reporting requirements, but, rather than reducing the level or lowering the bar, we feel it would be more appropriate to provide that the increased level of scrutiny be imposed on all members. I have some amendments to the Attorney's bill that would achieve that which I will move in due course.

MR QUINLAN (11.03): Mr Speaker, I would like to hear for my own satisfaction why this bill has been brought on at this time. As you have heard from Mr Stanhope, we readily accept the notion of equality in terms of reporting, and hence the amendments that he has foreshadowed. But, as far as I can see, there are no Independents in this house at this moment. We had one member elected to this place under the banner of Independent and he has now become a fully fledged Liberal, I think, Mr Moore. We also have a couple of Independents of convenience over in that corner of the house, but I thought that was more about manipulating—I will not say "rorting"—the staffing rules in this place so that more funds could be applied to each. So, if someone could have the good grace to inform this house as to why we need to do this at this time, I think it would be of great help to the debate and to the resolution.

MR RUGENDYKE (11.04): Firstly, I believe it is important that I put on the record the background to this bill and why the Electoral Commissioner has recommended that the government table these amendments to the Electoral Act. Earlier this year when my own returning officer was given notice that it was time to start preparing my own annual disclosure return, a grey area became apparent. My returning officer contacted the Electoral Commission to seek clarification. The Electoral Commissioner's subsequent investigations revealed an anomaly that they were not aware of and resulted in the following formal response from the Electoral Commissioner, Mr Phillip Green. I quote:

> The disclosure provisions of the Electoral Act were introduced to ensure disclosure of receipts, particularly donations, so that they appear on the public record. However, there does not appear to be any public interest in disclosure of personal income of Independent MLAs other than donations.
>
> As the Electoral Act stands only Independent MLAs are required to disclose personal income. Annual returns from parties need not include disclosure of party MLAs personal incomes as they are not received by the party. This situation seems inequitable and outside the intended scope of the legislation. As a result I intend to recommend to the Government that these provisions be amended to ensure that personal incomes of Independent MLAs need not be disclosed.

Mr Speaker, these words are self-explanatory and indicate that the subsequent bill we have before us today is a straightforward way of correcting this anomaly. I make the point again that this is on the recommendation of the Electoral Commissioner.

From my personal point of view, it is already on the record in the register of interests that my only income is from my duties as an MLA. As Mr Green stated in his correspondence, the disclosure provisions of the Electoral Act were introduced to ensure disclosure of donations for the public record. As far as I am aware it was not the intention of the legislation to itemise costs such as postage that are associated with day-to-day duties as an Independent MLA.

I would also like to mention the foreshadowed amendments from the Labor Party and the Greens. The Greens spoke to my office yesterday and I will be supporting at least one of their amendments, and I will listen carefully during the detail debate before determining my position on the other.

However, Mr Speaker, I have found the Labor Party's approach to this bill extremely curious. At last Wednesday's government business meeting the Labor Party representative said that they had concerns about this bill and wanted to consult, including with the Independents. Now, I have not seen the Labor Party, and they certainly have not fulfilled their pledge to consult on their intentions. The first I saw of any Labor Party amendments was five minutes before sitting this morning, so I am not aware of what the Labor Party is trying to achieve and I will listen to their case today with great interest.

The reason I am extremely guarded about the Labor Party's proposed amendments is that it was the Labor Party who was responsible for this anomaly in the first place. The disclosure requirements were part of a Labor Party bill that was introduced in 1993 and passed in 1994. During this seven-year period the Labor Party has never attempted to fix the anomaly.

Mr Corbell: Was it passed with the Liberals' assent?

Mr Humphries: You were in government at the time. It was your bill.

MR SPEAKER: Order! Stop interjecting, Mr Corbell.

Mr Corbell: Who opposed that legislation in 1994? Did you oppose it?

Mr Humphries: No. Much of it we did.

Mr Corbell: Oh, you supported it. Right. I bet Mr Moore supported it as well.

MR SPEAKER: Order! Mr Rugendyke, continue. Order, please!

MR RUGENDYKE: Again I point out that the Electoral Commissioner has stated that the anomaly is outside the intended scope of the legislation, the intended scope of the Labor Party bill. During this seven-year period the Labor Party has never mentioned changing the intended scope of its own legislation. Now that the Electoral Commissioner has advised that the anomaly is not in the spirit or intention of the legislation and has recommended a correction, the Labor Party says it wants to move the goalposts. I think it is totally reasonable that I am guarded about the Labor Party's approach because they are the ones who set the bar at one level for themselves and a higher level for Independents in the first place. It is one rule for them and another for the Independents.

Mr Speaker, I reiterate that the approach recommended by the Electoral Commissioner appears to be the most sensible and straightforward approach to fix this glitch in the Electoral Act and bring the Independent MLAs into line with party members in this place.

MR KAINE (11.11): Mr Speaker, I just want to say briefly that I support the government's bill. We only discussed yesterday the question of fairness and equity. The government had a different view then about what was fair and what was equitable, but this bill does seek to eliminate an anomaly. I have never been aware before that Independent members were being discriminated against in this way and it surprises me that it has taken us over 10 years to correct this anomaly. So I support what the government is attempting to do.

Like Mr Rugendyke, I do not know the intention of the Labor Party's amendments. I saw them only five minutes before the Assembly sat also. I have been through them, but I have not had an opportunity to go back to the act and see their effect . So I also wait to hear from the Labor Party what it is that they are now seeking to achieve. I would also be interested to know why it is that the Labor Party has done nothing to address these issues over all these years if they think it is so important. They had to wait until the government seeks to correct a legitimate anomaly before they suddenly decide that there are other changes that need to be made to this act.

I support the government's bill. I am not certain yet whether I am going to support the Labor Party or not because I do not know what the effects of their amendments are.

MR OSBORNE (11.12): Mr Speaker, for the record, I have some amendments being drafted to this legislation so I will adjourn the debate after the in-principle stage vote, but I do wish to speak to it before we get to that stage while the amendments are being drafted. Like Mr Rugendyke, I had the amendments thrown on my desk at about 10.20 this morning. I have not had a chance to have a good look at them. I am happy to consider them, but obviously I will need some time to do that.

I think Mr Rugendyke gave a clear account of the history of this legislation. It would appear that it has been an oversight that my office has missed and other Independents have missed over the life of this Assembly. It was only when Mr Rugendyke's staff were queried, I think by Mr Green, that the issue was brought to our attention. Mr Speaker, I have attempted during my time here to follow the rules of the Assembly in relation to disclosure. Should the Assembly decide, after having a look at Mr Stanhope's amendments, to go this far, then I imagine that all of us will attempt to follow the rules there too.

More importantly, Mr Speaker, I think this is about exposing potential conflicts of interest. It is obviously a very difficult issue that all of us face. I have ruled myself out of the issue of poker machines in the Assembly, although when you read the rules literally, as Ms Tucker continues to encourage me to do, I could vote on the issue of poker machines.

Ms Tucker: Yes, it's a cop-out, Paul.

MR OSBORNE: She claims it is a cop-out; I think it is an honest approach. Obviously, Mr Speaker, that is a call we all have to make. Obviously it is about ensuring that when we make decisions in this place we make them without undue pressure from people that we do other work for or who make donations to the party or Independents.

My amendment, Mr Speaker, would require that in respect of any donations of above $10,000 to political parties or individuals, those political parties or individuals would be unable to vote or take part in discussions on issues that are linked to the people who donate the money. I think it is something that should give some people in this place something to think about. I, for one, Mr Speaker, would find it very hard if I received hundreds of thousands of dollars from any particular group or organisation to be balanced when it came to voting on an issue.

Mr Speaker, I will have that amendment ready this afternoon. I will table it and I will look at it with interest, as I look at Mr Stanhope's, and I hope the Labor Party looks at my amendment with a view to supporting that as well.

MS TUCKER (11.15): I am glad that Mr Humphries has put forward the bill. It has caused me to look in some detail at the disclosure provisions of the Electoral Act and to realise that there are some significant gaps and inconsistencies in how parties and MLAs declare gifts and donations that they receive. This bill looks quite simple but it has raised for me a number of issues about disclosure of MLAs pecuniary interests that I believe are not adequately addressed in the Electoral Act.

The act currently contains a range of disclosure provisions dealing with the income and expenditure of parties, candidates and associated entities during election periods. I am aware that Mr Moore has put up a private members bill that reduces the thresholds at which donations have to be declared. That is a good initiative, but I will not dwell on that part of the act now.

The part that I am interested in today contains the provisions relating to the annual returns of parties and Independent MLAs. At the end of each financial year, parties and Independent MLAs must provide to the Electoral Commissioner a return detailing amounts paid to the party or Independent MLA over the year and amounts spent on various campaign expenses. In addition, those people who give donations to a party or Independent MLA also have to put in an annual return so that this information can be correlated with the party's and MLA's returns.

Concern has been raised that the current wording of the act means that Independent MLAs have to declare in their annual returns all income they have received, even their own MLA salary and interest on investments, which I understand was not the intention of the act. It is also inequitable in that party MLAs do not have to provide any annual returns at all; only their party provides a return. I can accept that this is a problem and that the act should be changed. Where I differ with the government, however, is how the act should be changed.

I believe that the wording the government has used in this bill to describe which gifts have to be declared by Independent MLAs is too restrictive. I think a better approach would be to require all MLAs, not just Independents, to provide annual returns on gifts and donations they receive. I think there is a general acceptance that the public has a right to know when MLAs are getting gifts and donations in their role as MLAs. I am not including personal gifts that an MLA may get regardless of the fact that they are an MLA, such as birthday presents. What I mean is gifts and donations that they were given only because the person is an MLA because the donor thinks the MLA deserves support because of their work as an MLA.

The public needs to be assured that incidents cannot be hidden of organisations and individuals attempting to buy favours or support from MLAs through the provision of gifts, or MLAs having a conflict of interest because they have financial interests in a matter before the Assembly or they do not want to offend their donors. I am sure that the members of this Assembly would not place themselves in this position, but it is important that the rules are clear so that the public can be assured that such incidents could not occur in the future.

However, the existing rules about disclosure of pecuniary interests are disjointed. The Electoral Commission has a statutory role in collecting information from parties and the Independent MLAs about gifts and donations, but not from party MLAs. There is also a register of MLAs' pecuniary interests kept by the Clerk, as authorised by resolution of the Assembly in 1992, but this information overlaps what is required by the Electoral Commissioner, and public access to this information is under different rules from those in the Electoral Act. It seems to me that there is a need to have only one system for keeping a register of pecuniary interests, and that this should be under the control of the Electoral Commissioner in line with his responsibilities for keeping other records on parties and candidates.

The speed at which the government has presented this bill and wants it passed has prevented me from doing a thorough review of this part of the act and preparing amendments to establish a statutory register of pecuniary interests. However, I understand that the ALP have been quicker than me in coming up with amendments to this bill that have the effect of applying the existing reporting provisions for Independent MLAs to all MLAs. I agree with the concept of having the same reporting requirement for all MLAs but can see some complications in how this has been drafted because it assumes that the existing reporting arrangements are acceptable. I will talk about this more in the detail stage.

In terms of the bill before us, I have prepared an amendment to clarify the information that Independent MLAs have to provide to the Electoral Commissioner, and a consequential amendment relating to the annual returns provided by donors. My intention is not to pick on Independent MLAs but to complete what I see as the first stage of requiring all MLAs to declare to the Electoral Commissioner gifts.

MR MOORE (Minister for Health and Community Care) (11.20): Mr Speaker, although I support this bill in principle I have to say I am not surprised that the Labor Party have not taken the Electoral Commissioner's advice because when it comes to electoral amendment bills they are extraordinarily embarrassed, particularly when it comes to disclosure. We saw yesterday Mr Stanhope's embarrassment over what happened federally in terms of the very fast train, but that is nothing compared to the embarrassment when people mention two words, poker machines. The electoral amendment bill and disclosure systems, Mr Speaker, highlight the fact that the Labor Party takes huge amounts of money from poker machines and yet continues to vote in this place to support its own cash cow, and that is a matter of embarrassment to the party.

I should point this out to clarify the situation to Mr Quinlan. When I have run for the Assembly I have run as Moore Independents and in that sense am considered, as far as the Electoral Commission is concerned, as a party, and I run my party—

Mr Quinlan: More passion. Come on. Get yourself wound up.

Mr Corbell: A party of convenience. It is like all those flag ships

MR SPEAKER: Order! Mr Moore has the floor. If you wish to defend yourselves you can stand up and speak later.

MR MOORE: It is a sensible way to operate. I am not uncomfortable with your notion of a party of convenience. It is a very different issue from what you do in term of your convenience and your embarrassment that comes over poker machines—

Mr Corbell: Have you ever heard of the ships of shame? Those flag of convenience ships? Come off it, Michael. You don't know what you are talking about.

MR SPEAKER: Order! You are not at one of your meetings now. Order, please! There will be silence while members are speaking, thank you. If you wish to participate in the debate, get up on your feet and do so. You are not in a party meeting now.

MR MOORE: Thank you. Mr Speaker, the reality is that every time the Labor Party are embarrassed they begin this sort of cackling across the chamber to try to undermine the things that are being said because they do not like what they hear. They know in their heart of hearts that it is true. They have a clear conflict of interest, a very clear conflict of interest, when it comes to poker machines. They protect their own cash cow in the very worst possible way. For them to come in here and put these sets of amendments that are inconsistent with the approach taken by the Electoral Commission is appalling because it exposes hypocrisy. They ought to do exactly the same as Mr Osborne does when it comes to matters with regard to poker machines; they should step aside. They should step aside from it, Mr Speaker, because it is quite clear it is absolutely—

Mr Quinlan: What, half the chamber? What a stupid notion.

MR MOORE: Mr Quinlan says, "What a stupid notion." That you would stand aside from a vote when you have the advantage of millions and millions of dollars over an electoral period. You feel you should not have any reason to stand aside. You have voted again and again to protect that cash cow.

Mr Quinlan: You can't vote on business? FAI. The casino.

Mr Corbell: Let's talk about the 250 Club. Let's talk about the Greenfields Foundation.

MR SPEAKER: Silence!

Mr Stanhope: The casino.

Mr Humphries: We have never had money from the casino.

MR MOORE: Again and again you have voted to protect that cash cow.

Mr Stanhope: The Liberal Party didn't have money from the casino?

Mr Humphries: Not $10,000.

MR MOORE: It is quite clear, Mr Speaker, that it is inappropriate for them to do so.

Mr Stanhope: Yes, you have. Look at your last return.

Mr Humphries: I have my doubts.

MR MOORE: In this particular case the Electoral Commissioner has identified an anomaly in the act where a couple of people who are in the Assembly—

Mr Quinlan: What is your price?

MR MOORE: Mr Speaker, why don't you name him? We are getting a bit sick of this.

MR SPEAKER: Yes, I will be doing that very shortly.

Mr Corbell: It's nice to see some independent chairing.

MR MOORE: Thank you, Mr Speaker. What we have is a situation where the Electoral Commissioner has made a recommendation. He has identified an anomaly in the act for people who happen to be in the Assembly at the moment, but, of course, in the long term, as he did with a number of other issues and said, "Why don't we rectify this anomaly?" The government looked at the legislation and said, "Yes, we ought to support this bill because it rectifies the anomaly."

Ms Tucker later correctly identified that we should have a level playing field for everybody. The first step in responding to that is to respond positively to the Electoral Commissioner, and it is an appropriate time for us to philosophically think about what it is that ought to be disclosed. I doubt if anybody has a problem with the disclosure, for each member, of a range of issues, which of course we do in two ways. One is our declaration of interests which is held by the Clerk, under the auspices of the Speaker, and the second is what is declared under the Electoral Act.

Mr Speaker, what is declared in the Electoral Act ought to go to the heart of somebody who is standing for election and how they are getting there. That is where it is that the Labor Party has a problem in terms of their poker machines. Of course, if they can manage to shift the flak away from that they might be more successful. That is not just my comment. I raised this issue publicly five or six years ago. It has been raised by others since that time. We have seen at least one editorial in the *Canberra Times* and other comments from outsiders looking in that make it very clear that you have a very clear conflict of interest with regard to those millions of dollars that come in.

Mr Speaker, I think it is appropriate for us to consider the detail stage of this legislation this afternoon because I have not had the opportunity to study as carefully as I would like the amendments circulated by the Labor Party. I have got the general sense of them, but I know that Mr Osborne suggested that at the detail stage he would move for an adjournment until later today, not in an attempt to put it off but in an attempt to give us the lunchtime period.

Mr Stanhope: We are happy to adjourn it. Let's adjourn it until October. That would give everybody time.

MR MOORE: To a later hour today would be entirely appropriate.

Mr Stanhope: October would be much better.

MR MOORE: Mr Stanhope continues his interjection, Mr Speaker, in spite of you having to rise to your feet earlier, and says, "Why don't we adjourn it until October?" The reason, Mr Stanhope, is that the Electoral Commissioner has identified a particular problem that affects people in the next few months and makes it the thing that you said you are opposed to, an uneven playing field. What we ought to do is rectify that. Now, whether we rectify it the way you are suggesting or whether we rectify it in the way the Electoral Commissioner suggests is something we should sort out as soon as possible because we know it affects some people before we sit the following time. So it is an appropriate thing for us to do today before we rise, and when we come to the amendments we will work out which is the best way to do it. The reality is that we have a commendation from the Electoral Commissioner and we ought to respond to that in the fairest possible way we can in spite of the embarrassment for the Labor Party.

MR CORBELL (11.28): Mr Speaker, once we get past Mr Moore's hyperbole, I think that was actually a speech in favour of Mr Stanhope's amendments. Quite frankly, let us make very clear what Mr Stanhope's amendments are about. I know that Independent members have raised this so I am very happy to reinforce Mr Stanhope's point. Mr Stanhope's amendments propose that all members in this place meet the same obligations which are currently imposed on Independent members under the existing legislation. That is what Mr Stanhope's amendments do. Simple and straightforward. We do not believe that there is any problem with all members in this place having to disclose all their income.

Mr Humphries: Why haven't you done it before then? It was your legislation in the first place. So it's a really important issue. You didn't bother to do it for seven years.

MR SPEAKER: Order! Mr Corbell has the floor.

MR CORBELL: We heard Mr Humphries interject, "Why haven't you done it before?" I ask Mr Humphries whether he pointed this out when he was shadowing this bill back in 1994-95? Did he point it out? No. Did he vote for this bill? Yes. Yes, he did vote for this bill. Every party in the Assembly at that time voted for the bill. It is an oversight. We do not deny that, but it is an oversight that has been committed by all members; not just the Labor Party but by all members. Okay. So let us get that point very clear. It is an oversight. There is no doubt about that.

Just as the government has proposed a solution, so has the opposition; but, unlike the government, we are not suggesting that the bar be lowered. We are not suggesting that the bar be lowered as the government is doing. We are suggesting that the bar be raised for party MLAs. That is what we are suggesting—that the bar be raised. What is the difficulty with all MLAs disclosing all income?

Mr Rugendyke: No difficulty whatever. Tell us about the spirit of the legislation.

MR CORBELL: Every single Labor MLA is prepared to do that.

Ms Tucker: I raise a point of order, Mr Speaker. I have been noticing quite often that you are threatening to name people in the Labor Party. Mr Humphries, Mr Moore and Mr Rugendyke are all interjecting and you never seem to notice that. I draw your attention to it.

MR SPEAKER: Thank you, I uphold the point of order.

Ms Tucker: I would like some consistency.

MR CORBELL: Hear, hear! Mr Speaker, every single Labor MLA is prepared to disclose all income. We are prepared to do it. Why isn't the government? Why aren't other members in this place? It seems to me that the only real argument against Mr Stanhope's proposition is that it would mean a lot of work for the Electoral Commission. Yes, it will mean a lot more work. There is no doubt about that, but is that a reason not to do it? The fact is that this Assembly passes laws all the time that require greater levels of oversight, examination, inspection and monitoring. This Assembly does it all the time. Why should we make an exception for ourselves? That seems to be the only argument against Mr Stanhope's proposition, and, quite simply, it is an inappropriate argument.

Mr Rugendyke raised the issue of the members register of interests and said, "Well, I already make these declarations in my members register of interests." The members register of interests does not require members to disclose sums of money. The members register of interests only requires that you disclose sources and the payment, but not the level of payment. So the members register of interests, whilst an important mechanism for accountability, does not have the same level of detail that is required by the Electoral Act.

Mr Speaker, I notice that Mr Osborne has raised the issue of introducing amendments which we are yet to see. In his speech in the in-principle stage he has indicated that he will introduce amendments that will require members not to vote in certain circumstances if a certain level of donation is received. I think he said the level would be $10,000. Well, Mr Speaker, I would raise the issue of legislating about when members can and cannot vote in this place. I think that raises some very serious issues about the privilege of members to exercise their role as members in this place. If we are going to start passing laws that say members can only vote in certain circumstances or, more importantly, members cannot vote in certain circumstances, I think that raises some very serious constitutional issues which I believe would almost certainly be contrary to the self-government act and certainly would impose on the privileges of members in this place. I hope that this Assembly very seriously considers those issues before we rush into a vote on amendments that Mr Osborne has flagged he will be proposing.

Mr Speaker, the final point I want to make is about the tirade which has been heaped upon this side of the chamber from members of the Liberal Party, and of course I include Mr Moore in that comment. The Liberal Party really should have a close look at its own record because only the Liberal Party has set up an organisation called the 250 Club by

means of which people can make a donation of $250 apiece to help raise funds for the Liberal Party. This is a very convenient mechanism. Unlike the Labor Party that discloses its sources of support, predominantly from trade unions and the registered clubs, the 250 Club allows very wealthy individuals to make repeat donations of $250 on each occasion and the Liberal Party does not have to disclose where that money comes from.

It is a bit like the Greenfields Foundation. Do you remember the Greenfields Foundation? It was established by the federal Liberal Party. The Greenfields Foundation was a separate company established by the Liberal Party to try to get around federal electoral law in relation to disclosure. They had to be dragged, kicking and screaming, to disclose their record when it came to the Greenfields Foundation and who actually lodged moneys there. I know that the government does not like this issue. I know that the government finds this a little bit embarrassing. They are not squeaky clean on this.

Mr Humphries: Mr Speaker, I take a point of order. This is a debate about ACT electoral laws. The Greenfields Foundation does not operate, as far as I am aware, in the ACT. I ask Mr Corbell to be relevant to the matter under debate.

MR SPEAKER: I uphold the point of order.

MR CORBELL: Mr Speaker, there is no point of order. This is about drawing the comparison. This bill says nothing about poker machines either, but you let Mr Moore get away with that. Mr Speaker, the fact is that the Liberals have an appalling record on this type of issue. They are far from squeaky clean. Yes, the Electoral Commissioner has put forward a proposal, but it is up to this place to decide the most appropriate mechanism and the Labor Party says raise the bar for everyone. Make everyone accountable in the way that Independents are at the moment. The Labor Party members are prepared to disclose every cent of income received. I would hope that all other members are prepared to do the same.

MR BERRY (11.37): Like everybody else in this place, particularly those of us who are members of political parties, I conform with the law of the day, the Electoral Act. I have set out returns in relation to these matters in the past. I must admit that I have never focused on what has been discovered, a playing field that needs levelling. I was quite interested to see the Attorney-General come forward with a bill. We discovered later that he brought it forward because he was requested to do so by the Independents.

Mr Rugendyke: By the Electoral Commissioner.

Mr Humphries: Mr Speaker, I take a point of order. The Electoral Commissioner raised the matter, not the Independents.

MR BERRY: I can only go by what was reported in the paper.

Mr Quinlan: The Independents must have raised it with the Electoral Commissioner.

MR BERRY: Somebody raised it with the Electoral Commissioner, and in due course the Attorney-General brought the matter forward. It seems to me to be a bit quirky. I am a little surprised that the Independents did not bring the legislation forward themselves.

That surprised me a little, but that is not to say there is anything untoward about the process that has been followed so far. I was a little curious about that.

Then I had a close look at the legislation and discovered that what was being said was true. There are certain provisions that apply to Independents that do not apply to party members. These are provisions which would have applied to the Independents when they were members of a party but the situation changed when they dissolved their party. That was the first time I have bothered to focus that closely on the issue. My immediate reaction was to say, "Why don't we have to report this?" That was my immediate reaction. When I came into this game I think I came in with the view that there was not going to be much of my privacy left anyway. It came as a little surprise to me that I was not required to report in the same way as the Independents. Having considered the matter, I automatically came to the conclusion—I think it was just the natural thing to do—that we should all report to the fullest. There should be nothing that can be described as being secretive.

Now, there will be comparisons drawn with other pieces of legislation that apply in other parliaments, I have no doubt about that, but for my part, when it comes to these sorts of issues, it is about ratcheting it up rather than ratcheting it down. I think the ordinary passer-by in the street outside would say, "What the hell are they doing in there? Why are they ratcheting it down?" The suspicious nature of constituents would lead them to the conclusion, I would think, that somebody is trying to hide something, whether that is true or not. I do not want to be part of a process which suggests to the community that this place is trying to hide something which really ought not be that painful to disclose.

It seems to me that if you decide to go into politics and you become a legislator and you participate in the making of laws which affect the lives and property of our constituents, and which in certain circumstances would create a certain suggestion of, say, a conflict of interest, you ought to be required to declare everything you have. One is always drawn then to what one's personal circumstances are in the scheme of things.

I remember when I was first asked to fill out a form for disclosure in the Assembly. Everything I owned had to be declared just in case I had a conflict of interest. I rather jokingly decided that I would put down on my declaration of interests that I had a garage full of rusty Ford parts. I have these two old rusty Fords that are really not worth much at all, but I cannot take them off the declaration because somebody might say, "What is going on? He still has them. He has taken them off his declaration. Have they turned to gold or something?" So here on my declaration are these old rusty Fords which will stay there while ever I am in this Assembly. This may require me to declare any gifts of rusty Ford hubcaps that might come to me, but I don't care, to be quite frank.

Mr Smyth: They can be very valuable.

MR BERRY: They might be one day. It is all good old rusty stuff. The point is your privacy. Where do you draw the line so far as your privacy is concerned in this place? I do not think you can draw the line too high. I do not think it really matters that much. It does not matter at all to me. If somebody looks at all of my private financial and property ownership schemes, they will not find them very exciting. In fact, they would say, "You pay more attention to your work in the Assembly than you pay to your own affairs." That is probably true of most of us, in a lot of respects. Nevertheless, I am quite happy to

have, as they say, my bum exposed on these issues. I feel very uncomfortable about ratcheting it down, and I think that is what we are doing here. I do not know why.

One's suspicions are again excited, I think, when you see a piece of legislation introduced into this place last week and we want to resolve it this week. The declaration of interests is an issue which constituents would be concerned about. I think that is too hasty in any event. Leave aside the debate about the issues of principle here. It is just too hasty to deal with that sort of legislation. It is impossible to comprehend a set of circumstances in relation to this legislation where constituents would be that happy about seeing it pass so quickly.

I was not here for the earlier part of the debate, but I have heard it said that the reason we need to pass it now is that it would apply to the next declaration which is due somewhere towards October, or something like that, and therefore people would not have to report by then. That struck me as a bit of retrospective legislation. What we are doing is retrospectively wiping out the requirement to declare. We all know about the sensitivities on retrospective legislation, and there are good grounds. Even if we decide to pass legislation like this, I think it would be impossible for us to pass it in a retrospective way because it takes away an obligation.

Mr Humphries frowns. For example, say somebody has something which has to be reported under the law that now applies and the occurrence which gave rise to this matter that had to be reported happened three months ago and might turn up in the declaration which is due later this year—my accuracy on dates here might be a bit off—we are taking away the obligation to report something that happened some time ago. So it is retrospective in effect, in that sense. I am a little troubled about that because the ordinary person in the street would say, "Well, what is it that they do not want to declare?" I think that would be a fair question for somebody to ask, "What is it that they do not want to declare?"

For my part, I do not care if it is retrospective. Even if we are going to ratchet it up for all of us, we should keep in mind that retrospective issue because it is a question that comes up for legislators all the time. In respect to the amendment which has been put by the Attorney-General, even if we accept that there is an argument to ratchet the declarations down, there is certainly not an argument to do it retrospectively. So, Mr Speaker, I think we are rushing this and we are deserving of strong criticism for rushing something which impinges on the issue which raises the ire of voters and the community generally more than anything else, and that is the hint of possible corruption.

You just cannot be too careful about these sorts of things. If we proceed down the path which is proposed today I think we will have been unduly hasty. We are inviting criticism of this place, all of us, and politicians generally, which we should not be inviting. It looks as though we are in a hurry. To put it in its roughest interpretation, it could be said that we are in a hell of a rush to hide something. I just think that is a dumb move for politicians. It is something that we cannot afford to do.

I heard someone interject, "Why don't we adjourn it until October?" Well, I would be happy enough with that. If people want to leave it on the table for a while, I think that would be a smart idea. It would be a lot smarter than rushing it through today. There are amendments on the table suggesting that we should ratchet it up. I think that is a smart

idea. I have not got anything to hide, and I do not know that anybody else in here should have either. If somebody has got something to hide, too bad, because we really have to be purer than the driven snow.

I heard the latter part of the debate. I think Mr Moore was wailing about our connections with the Labor Club and so on an so forth. Well, I bet he would not be wailing if he had similar connections with, say, the Michael Moore club or the Residents Rally club or something like that. The same applies to the Liberals and their wailing about the licensed club. If they had a licensed club of their own they would not be wailing about it in respect to somebody else. Mind you, I would say that they would only need a small building these days.

Mr Quinlan: If they want a small club, give them a big club and let them manage it for a while.

MR BERRY: I will put that interjection on the record. Mr Quinlan just said that if you want the Liberals to have a small club, give them a big one and let them manage it for a while.

Mr Speaker, I have not got a lot more to say on this matter except to reaffirm the need for caution. I know what will happen the next time I go to the pub or the club or wander down the street. I know what questions will be put to me. People will say, "What are you people trying to hide?" That will be the question, and I will say, "I don't know." Now nobody will be able to clear the slate by making a declaration in accordance with the act because the government wants to change it. The reasons, to me, are quite obscure and risky if the standing of this legislature is of any value to anybody in this place.

I sincerely think that this is a mad move. In the first place, we ought to delay it. I just cannot see an argument—there isn't one to me—that says we should not all be trying to ratchet up our obligations to demonstrate to the community that we are honest brokers so far as the making of laws is concerned in the management of this territory.

There is one final point and that is the issue of laws to require us to vote or not to vote on certain things. I think this crosses some boundaries. I am sure there are constitutional reasons that we should not cross. How on earth can this place say to members in this place, "You can't vote on certain matters." One thing you can do, of course, is declare that somebody has a conflict of interest in this place. That is open to us here under the standing orders, but to try to rule somebody out from voting on a particular issue is just crazy. It is a bit like saying to me that—

MR SPEAKER: The member's time has expired.

MR BERRY: Give me a couple of minutes, Mr Speaker. Just because you are bored with this debate and you do not like it does not mean that other members do not have a right to speak.

MR SPEAKER: You have had 15 minutes already.

MR BERRY: The gratuitous body language does not add much to the debate. *(Extension of time granted.)* Mr Speaker, the thought of blocking people from voting on a particular issue is just beyond belief. If you take it to its worst degree, none of us could even vote on a budget because it might in some way affect the rates on our house. That is how silly it is. It is just a silly notion. Thank you, Mr Speaker.

MR HARGREAVES (11.53): Mr Speaker, I just want to put on the record that I do not have any difficulty with any of my financial dealings being made available to anybody who wants to have a look at them. It would take them about 30 seconds to read it and to realise what an appalling state they are in anyway. I have, in fact, a rescue package at home and that is my dear wife. She looks after my affairs and makes sure that I am clothed and fed. As can be seen by my declaration of interests, we have a small flat. It returns a certain amount of rent but it actually costs me money to keep it. So the question is whether or not I am declaring a debt or whether I am declaring a profit, because it was not the wisest investment I ever made in my life. I just want to place my position on the record, Mr Speaker. I do not really care. In fact, I am quite happy to reveal all that I have.

I just want to utter a word of caution about this. There are other people affected by this too. A lot of the income that comes into our household—that is the wrong phrase, "a lot of the income", because there is not all that much of it—is joint income. So, whilst I might have no objection to my own financial information being made public, I cannot speak for my wife or anybody else in my family that it may be in the public interest to know about. I think it would only be fair to those people if they could see what is being proposed here as well.

Mr Moore: So are you going to oppose Jon's amendments?

MR HARGREAVES: Mr Speaker, one of the reasons why I listened to this debate on the television is that I could not stand the excited rantings of Mr Moore and the blood-red veins that were sticking out of his head. I do not want to put up with nonsense. Would you protect me from that horrible man? I am concerned that people who are otherwise affected by this get a chance to see what we are doing. I would be quite happy to have it put over until October as well. I do not want to put it over for forever and a day; just for enough time for those people to see what is going to happen.

The hysterical rantings about how much individual members of this side of the house receive from the Labor Club only demonstrates to me the professional ignorance of the minister for health. He is either grossly ignorant or incredibly mischievous in wanting to beat up another story in the paper to hide the bad ones that he is copping lately. He knows that you can always get a run by bashing the Labor Party with the Labor Club stick. I have to say people are getting weary about that. If only he would do what he keeps asking us to do. He says to us, "Why don't you come and talk to me before you shoot your mouth off?" I would like to invite the minister to do the same thing, to take his own advice. He can come and have a chat to me. I will put the coffee and the hot water in the cup, and I will put in the Valium for him while I am at it. I will tell him how much I got from the Labor Club. You could double that, minister, from out of your own change pocket.

Mr Moore: It's not you personally, John. I never said that.

MR HARGREAVES: Well, if it is not me personally, why is it brought into this chamber as an issue? We are talking about what I am going to declare, or what Mr Osborne or Mr Rugendyke are going to declare as individuals. What we are saying is let us level the playing field. The minister has just conceded that his speech contained 90 per cent rot and 10 per cent manure. As far as I am concerned, Mr Speaker, he ought to stick to the issue. If he is going to have a go at us individually he should get his facts right.

As I said before, I do not have any difficulty at all about having my registration of declarable interests looked at by anybody. I am happy to have the high jump bar at the same height for all of us, and I think that is important. Whether we are members of a party or Independents should not matter. I am not sure I know the best way to go about this. I think whichever of the two enables the thing to be more transparent is the way we ought to go. If it is more transparent for members of a party to have to comply with the sorts of things that Independents do, then so be it; I am in favour of that. If it allows the Independents to hide behind the sort of thing that people opposite can, then I am not for that. We know that if you can not declare something because a party might, then you are actually hiding behind that. We are saying, "We will whack it out there. Let it be transparent. There's nothing to hide." This side of the house does not have a huge track record about people trying to hide stuff. Federal Liberal ministers have a huge amount to hide. In fact, the guillotine basket is full.

Mr Humphries: I take a point of order, Mr Speaker. Mr Hargreaves is talking about federal Liberal ministers. That is not a matter that is subject to this debate.

Mr Quinlan: Former ministers, actually.

MR HARGREAVES: I take the minister's point of order, Mr Speaker.

MR SPEAKER: So do I.

MR HARGREAVES: They are former ministers because their heads are in the guillotine basket. This is relevant, Mr Speaker, because this is to do with declaration of interest. These people did not declare it. They were not open and they paid a penalty for it, but there is provision for that. They have a great track record for either trying to hide something or just cocking it up in the first place.

When we decide on this thing, think about its implication for people who will be affected other than ourselves. Also, should we do it now or should we do it in the first sitting week in October? I have no problem with that. Think also about where the high-jump bar is being set. I suggest that people examine what they have and say whether or not they are happy to have it declared. I am quite happy to have mine declared.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.59), in reply: Mr Speaker, I will close the debate. Mr Berry thinks that we should be as pure as the driven snow in here. Well, it appears that those opposite are already pretty seriously soiled and sludged on this question and they would be the last people in this place to talk in any way about being pure as the driven snow.

These people come in here, week in, week out, and vote on issues where, as any person in a club or pub, to quote Mr Berry again, would say there is a gross and obvious conflict of interest. For them to be lecturing us on the question of ethics, of probity, is an absolute and utter joke.

Mr Berry: If you go ahead with this, Gary, you are going to look like a crook and make the rest of us look like crooks as well.

Mr Quinlan: We know how sludged you are.

MR SPEAKER: Members, you were heard in silence after Ms Tucker took a point of order. I want the same courtesy extended to Mr Humphries. Otherwise some members may not be here for the rest of the session, or for at least three hours of it anyway.

MR HUMPHRIES: Thank you, Mr Speaker. What we have here is the grossest form of hypocrisy that could be brought to this debate that you could possibly imagine. These people opposite have a massive income from poker machines each year, millions of dollars over the life of each parliament. They are raking in this money, stuffing it into their pockets, and then—

Mr Berry: Mr Speaker, I have every respect for Mr Humphries' ability to make up a few metaphors, but to suggest that the Labor Party members in here are sticking money in their pockets is a wee bit over the top.

Mr Quinlan: Yes. Withdraw.

MR HUMPHRIES: Mr Speaker, I withdraw that.

MR SPEAKER: Thank you.

MR HUMPHRIES: I withdraw that and say instead that you are putting the money in your collective pocket as a party and then coming in here and lecturing us about the probity of having declarations of members' interests. For you people to come in here day in and day out and vote with that conflict of interest is absolutely—

Mr Quinlan: We declare it.

MR HUMPHRIES: Oh, you declare it. That's fine. You declare it. That does not stop you from coming here and casting a vote when clearly your vested interest is deeply affected. What sort of hypocrisy is that?

Mr Quinlan: Who is the 250 Club?

Mr Stanhope: Give us a list of the members.

MR HUMPHRIES: Mr Speaker, again I ask for—

MR SPEAKER: Order! I am warning—

Mr Hargreaves: I take a point of order, please, Mr Speaker. The minister has referred to members coming in here day after day after day and voting with a conflict of interest. I suggest that that is not true. I ask him to withdraw that. Check *Hansard.* You want to say to us that we are coming in here and voting on gaming legislation and whatever. Fine. We will wear your accusations.

MR HUMPHRIES: What is the point of order, Mr Speaker?

Mr Hargreaves: The point of order, Mr Speaker, is this: his reference was offensive. He said that we come in here day after day after day with our conflict of interest and vote. That is offensive and I ask him to withdraw it.

MR HUMPHRIES: Mr Speaker, it is no less offensive than anything Mr Hargreaves said in his speech about Liberal ministers. It is absolutely true. You have a conflict of interest. You come in here—

Mr Hargreaves: Not every day and not every issue. In fact, we don't have a conflict of interest at all.

MR HUMPHRIES: Oh, not every day. Mr Speaker, I take a point of order here. I heard Mr Hargreaves in complete silence. I heard Mr Berry in complete silence. I think it is unreasonable to expect—

MR SPEAKER: I will not uphold the point of order. I ask members, however, to be aware of what they are saying. There have been some very sweeping generalisations on both sides of the house. I do not uphold the point of order, but I do uphold Mr Humphries' point of order about silence.

MR HUMPHRIES: Thank you, Mr Speaker. What we have here is a gross conflict of interest, totally ignored by the Labor Party, who now come forward and tell us that we ought to be raising the bar, as they put it. That is pure hyperbole. The ordinary person in the street would regard the ethical position taken by the Australian Labor Party as being totally and utterly a sham. What they are doing on this occasion by arguing for a change of the status of disclosure provisions in the Electoral Act is also a sham.

This legislation, Mr Speaker, is to reinforce the status quo. It is not to lower the bar. It is to reinforce the status quo. The de facto status quo at present is that members are required to disclose details of amounts received as gifts other than personal gifts. That is the requirement on members. The requirement technically on Independent members in this place is different. The requirement on them is to disclose details of all amounts received from all sources except for personal gifts.

I say that that is the technical position because it has not been the position adopted in respect of disclosure by members to date, and it has not been a matter that the Electoral Commissioner has required members to disclose to date. The Electoral Commissioner has understood the situation applying to Independent members to have been the same as that which applies to party members, until a short while ago, a few weeks ago. A few weeks ago a matter, as described by Mr Rugendyke, was raised with the Electoral Commissioner and the commissioner, I gather, took advice and determined that in fact there was an anomaly in the legislation, a previously undetected anomaly, if you like,

which indicated that Independent members had a higher duty of disclosure than ordinary members in this place.

A standard had been set in the legislation which was introduced into this place by the former Labor government. That standard said that members should disclose certain things but did not have to disclose other things. That was the standard. It is a standard which has applied consistently to the government, the non-government, to party members and Independent members for the six or so years since that original legislation was passed in 1994, or possibly even earlier than that. I forget. There were a number of bills on this, but, whenever it was, it has been applied consistently for at least six years. We have discovered that there was technically a different requirement. We are attempting to restore the requirement that was intended to be in the legislation from day one.

It was the intent of the Labor government of the day that members should disclose their gifts other than personal gifts. It was not the Labor government's intention that they should have to disclose income that was personal in nature. We know that from the nature of the debate that took place when that legislation was first introduced. So the hypocrites opposite, who now say that they believe that now that we have drawn this anomaly to their attention and that we now have two different standards and we should go to the higher standard, are being absolutely insincere.

They have seen, for the last six years at least, that there was no need to disclose these things. This lack of necessity to disclose did not trouble them in the least. Where was their motion, their legislation, at any time in the last six years to raise the standard, to raise the bar as they now say it should be raised? Where was it? They did not have any legislation; they did not have any motion. They did not even express any public or private concern apparently about the situation as it stood because they were perfectly happy with it.

It is only the opportunity to have a go, apparently, at the crossbenchers at this stage that generates this opportunistic and highly hypocritical resort to "probity" by the Australian Labor Party. These people who rake in the dollars from poker machines year in and year out have absolutely no compunction about coming into this place and casting votes in this place that protect and shore up their vested interests. Mr Speaker, that is what the ordinary person in the street, I suspect, would have considerable concerns about, not the fact that members are not disclosing their private incomes.

I am not aware of any state or territory in Australia where disclosure of the kind that Labor is now talking about is required. I am not aware of it happening anywhere. In fact, I suspect that the existing ACT requirements for disclosure and the register of members' interests probably falls close to the upper end of the benchmark for disclosure for members of parliament in this country. So we have nothing to apologise about in this place in terms of disclosure of our position, nothing whatsoever. If Labor suddenly thinks that they have a problem with the level of disclosure, the question could well be asked: why didn't you do anything about it before now?

Mr Quinlan: FAI/Waldorf.

MR HUMPHRIES: Why haven't you done something about this before, Mr Quinlan or Mr Stanhope? Where was your conscience pricking you about getting these disclosure provisions out before?

Mr Quinlan: Why haven't you? You are on your feet. Tell us about you.

MR HUMPHRIES: You have been in this place now for the last 3½ years. Where was your burning desire to get these things off your chest and put them on the table? Where was it?

Mr Quinlan: And you.

MR HUMPHRIES: I have had no problem with it. That is the difference. I have no problem with disclosing all the information.

Mr Stanhope: It meant you might have to do some more work.

MR SPEAKER: Careful.

MR HUMPHRIES: Mr Speaker, I again have to appeal to you for fairness.

MR SPEAKER: Yes.

MR HUMPHRIES: We did hear the other members—

Mr Quinlan: Do not bait the other side of the house.

MR HUMPHRIES: I am sorry; I am making the same points you made.

MR SPEAKER: Order! If you feel you have been baited you have the opportunity to stand up at the end of the debate and make a personal explanation. That is the way to do it, not by constant interjections, thank you.

Mr Quinlan: I raise a point of order, Mr Speaker. Would you direct Mr Humphries to direct his statements through the chair, in that case, instead of across the house?

MR SPEAKER: Mr Humphries always directs his statements through the chair.

MR HUMPHRIES: Mr Speaker, I think we all have to acknowledge that there is nothing but the grossest hypocrisy in a party which lectures the community about probity, which lectures this place about the need to make sure that people act in an ethical way, that we have a high standard of disclosure, and yet comes to this place, day in and day out, and casts a vote on a matter where their own vested interest is intimately affected and has no compunction about doing so.

Mr Speaker, they say they are concerned about ethics, yet a proposal for the appointment of a commissioner for parliamentary ethics has been languishing in a committee that they are represented on, without apparently any action now for many months. That is a matter which would significantly raise the standard in this place.

Mr Stanhope: What are you doing about that, Harold?

MR HUMPHRIES: Mr Speaker, again, I heard Labor members in silence.

MR SPEAKER: Order, please! Will you stop asking questions, Mr Stanhope?

Mr Stanhope: I was speaking to Harold.

MR SPEAKER: Well, go and talk to him privately.

MR HUMPHRIES: The fact is, Mr Speaker, that those opposite have no compunction about burying the commissioner for parliamentary ethics, yet now they say that they are concerned about ethical behaviour in the parliament. That is just absolute nonsense.

Mr Corbell said they were not suggesting that the bar be lower; they think the bar should be raised. We are maintaining that the bar should stay where it has always been understood to be, and in fact it has been acted to be, consistently for the last six years. No more, no less, Mr Speaker.

I think it is important to view the Labor Party's behaviour in light of the way in which they have put forward the amendments which they have before the house today. I note that these amendments were produced by the Office of Parliamentary Counsel yesterday at 10.30 in the morning. Apparently they were made available some time shortly after that to those opposite. Surprise, surprise; today they were received by those on this side of the house for consideration in this house today. Now, what does it say about the sincerity of those opposite that they move for these vitally important amendments to raise the standard of parliamentary ethics and they sit on them for 24 hours without putting them up for members on this side of the house to see?

What we have here, Mr Speaker, is a complete lack of sincerity on the Labor Party's part. They table these amendments a day after they receive them after they have already shown them to some of the crossbench, we understand. They put them on the table for others to see today, three pages of complex amendments, knowing that the bill has to be dealt with today, and they expect to be taken seriously in this matter. Mr Speaker, I think this is sheer hypocrisy on the Labor Party's part, and I think members should see it for what it is. I urge members to support the government's bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1.

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

Sitting suspended from 12.15 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Drug-related Deaths

MR STANHOPE: My question is to the Minister for Health and Community Care. Can the minister tell the Assembly how many drug overdose deaths have occurred in the ACT since the beginning of this year, and separately since the beginning of the current financial year? Is the minister able to tell us how many of these deaths were of indigenous people, and what percentage of total overdose deaths do deaths of indigenous people represent?

MR MOORE: I am not going to be able to answer the specifics of the questions now. I will take them on notice. Because this is the last question time in this sitting period, Mr Stanhope, I will get answers to you personally as soon as I can. We recognise and are seeking to address the drug and alcohol issues with regard to indigenous people. This government takes very seriously the issue of drug overdose. Whilst there are some differences among members of the Assembly about some areas of drug policy, I think we are all agreed on treatment, rehabilitation and reaching out to people. We will continue to work very hard on those issues.

MR STANHOPE: I ask a supplementary question, Mr Speaker. Thank you, minister, for undertaking to provide me with that information. My supplementary question is this: is the minister aware of the findings and recommendations of the report *They'll just read about us in storybooks*, which indicated appalling levels of drug abuse within the ACT indigenous community and with which his department was involved? That report was released, I believe, in February this year. In particular, has the minister given consideration to guaranteeing that funds will be made available to Winnunga Nimmityjah Aboriginal Health Service to appoint a dedicated alcohol and drug worker to address this alarming problem?

MR MOORE: Members will be aware that we have been working very hard on an health plan for Aboriginal people within the ACT. Instead of having a direction from the government, from the Commonwealth or from Aboriginal people, we have tried to ensure that we have a proper partnership in delivering the best possible services. We plan to release that plan very shortly. It includes such issues as drug and alcohol.

As I said, we are seeing what we can do to provide drug and alcohol services to Aboriginal people. That will not necessarily be through Winnunga Nimmityjah, which is wholly funded by, and answers to, the Commonwealth. However, as you would be aware, Mr Stanhope, we recently handed over the home of Winnunga Nimmityjah behind the Ainslie shops, in a wonderful spot. They have created an atmosphere themselves. We made sure it was in the best possible condition before we handed it over to finalise that project. We are interested in delivering those services and will deliver them in the context of the Aboriginal health plan.

V8 Supercar Race—Criticism—Suggested Legal Action by CTEC

MR KAINE: My question, through you, Mr Speaker, is to the Chief Minister. I have heard of an article in the *Canberra Times* of today in which it is asserted that a government agency for which you are responsible, Chief Minister, the Canberra Tourism and Events Corporation, has threatened legal action against an individual who had the temerity to be critical of the V8 car race. I do not see anything wrong with the car race; I have nothing against it. But I am grossly concerned at the notion that a government should use bullyboy tactics against a member of the public who questions the performance of the government on such a matter as this. I note that the Chief Minister was quoted by her spokesman as supporting CTEC in this action against Ms Rees, the person in this case. Chief Minister, is it now your government policy to threaten to sue any member of the public who criticises you or any of your agencies for what you do?

MS CARNELL: No, and it is not in this case either. I suggest that CTEC has every right to take the action that they have taken. CTEC obviously did not seek my approval to go down this path, but I back them up in doing so, because they have a responsibility to protect the good name of CTEC. That is one of the jobs of the board.

In this particular instance, Mr Speaker, it is very hard to suggest the person we are talking about is just a poor little member of the public. The person involved, as we know, spends an extraordinary amount of time in the media. She chooses to use the media, and has every right to do so. She presents herself as a public figure. She has even stood for this place. She has every right to do so, and she has every right to criticise. What she does not have a right to do is to make comments that would appear to be defamatory, just as I do not have a right to do that and Mr Kaine does not have a right to do that. If anybody in this place made the same comments about the person involved as she is purported to have made about CTEC and the board, I suggest that we would have been in court before we could have blinked.

It is appropriate for everybody, whether people here or members of the public, to respect the rights of others and not to make defamatory comments. Criticism is fine, but suggesting that people cooked the books! The board of CTEC has every right, in fact a responsibility, to protect the good name of the organisation.

MR KAINE: I ask a supplementary question, Mr Speaker. Since the Chief Minister clearly does support this kind of action by her agencies, and since she talks about statements purporting to be defamatory, will the Chief Minister satisfy the public mind as to whether or not they were defamatory and put on the table in this place all of the documents in the possession of the government and its agencies relating to the calculation of costs of the V8 supercar event so that we can all see them and find out whether the statements were defamatory or not?

MS CARNELL: The comments that were made were nothing to do with the issues Mr Kaine brings up right now. I make the point again that if members of the public or members of this place—

Mr Berry: On a point of order, Mr Speaker: I think Mr Kaine asked the Chief Minister whether she would make available all those documents.

MR SPEAKER: There is no point of order.

Mr Berry: I would like to know whether she is going to make them available or not.

MR SPEAKER: There is no point of order, and if you try that again you may find yourself out.

Mr Kaine: Could I have a answer yes or no, Mr Speaker, or am I going to be fobbed off, or threatened with legal action because it is potentially defamatory?

MR SPEAKER: There is no point of order, Mr Kaine. The Chief Minister is answering the question as she sees fit.

MS CARNELL: I am, Mr Speaker. The board at CTEC did not ask me for my approval to go down this path, nor should they have asked. I defend their right and their responsibility to protect the good name of the corporation. I am absolutely amazed that anybody in this place would see it any differently.

ACTEW/AGL Joint Venture

MR QUINLAN: My question is to the Treasurer, and it relates to the partial privatisation of ACTEW through the medium of a joint venture with AGL. The *Canberra Times* has today published an article by regular economics commentator Peter Urban on the subject. For the record, Mr Urban is a relatively dry economist when it comes to the activities of government. Amongst other criticisms—and I will have to read some of this out for the non-readers of the *Canberra Times*—the article includes the observation:

> … that the Carnell government has set a new low standard for the process of privatising public assets.

He further asserts—and I quote for those who do not read the local press:

> While there is a case for selling Actew's retail electricity business—it is a fairly risky business—Actew's other businesses are in good shape, low risk and generating profits.

He goes on to point out:

> The pattern of urban infill in Canberra offers remarkable profit-growth opportunities for Actew's water, sewerage and electricity transmission businesses.

I have to say, Mr Speaker, that I do not agree with some of what Mr Urban says or implies about the process of creating joint ventures. I am reasonably satisfied with the basic valuation process for individual assets, although I have stood in this place—

Mr Humphries: This is not a question.

MR QUINLAN: I am just trying to cut off the bulldust that would come out otherwise. I have stood in this place previously and observed that we did not include the control premium, and I do agree that we sold ourselves short—or you have sold us short. Mr Treasurer, I ask whether you agree with Mr Urban's comments—and I will repeat them:

> Indeed, with the AGL/Actew joint venture, the Carnell Government has set a new low standard for the process of privatising public assets.

MR HUMPHRIES: Mr Speaker, I can well understand Mr Quinlan's excitement at discovering somebody in the media who agrees with the line he has run. It must have been very galling to have to rely on—I had better get this quote right—the pinko chardonnay socialists of the *Canberra Times* for that information. Although it must have been very galling to have to fall back on those good souls at the *Canberra Times* who have been so described by Labor, I am afraid that one swallow does not a summer make.

I have not read Mr Urban's article, although I do tend to read a little more of the *Canberra Times* then perhaps other on the front bench do. I am just a masochist at heart. That is probably why. My view is that there is inevitably a wide variety of opinions on this issue. However, the fact remains that if you have an asset which is assigned, sold or transferred—whatever language you want to use—to a joint venture partnership with the prerogative for the assignor to have the asset returned to him or it at any stage in the future, then you have an asset which could only be described as being sold in the very broadest possible concept of that word.

This Assembly indicated quite clearly to the ACT government almost two years ago that it would not approve the sale of ACTEW. The government was therefore forced to bring forward a proposal which did not include the sale of ACTEW. Mr Quinlan's oratory was unsuccessful in persuading members of this place that what the government was engaged in was the partial sale of ACTEW and, with the exception of Mr Urban, has been unsuccessful with respect to any commentator in the ACT community, as far as I am aware.

We have here an arrangement which is clearly in the best interests of the ACT community. It puts ACTEW out into a marketplace in a way that retains ultimate government control of the assets, in the sense that they can be called back, but gives ACTEW the opportunity to be able to work with the private sector in a partnership which properly stymies the risk which ACTEW clearly faces without that kind of development. If Mr Quinlan and his colleagues are insistent on continuing the line that there is no risk to ACTEW's assets in a market which is rapidly changing and in an environment where competition is changing and increasing at an enormous pace, then good luck to him.

I think the reaction by the ACT community to the ACTEW/AGL partnership is very significantly different to the reaction of the ACT community to the original proposed sale. We all saw the reaction of the ACT community to the sale proposal. Even on this side of the chamber we are well aware of what people were saying. We are also well aware that that was not the reaction to the ACTEW/AGL deal. That is the best indicator to this government that the proposal we have taken does preserve the necessary degree of public control over the assets, by giving ACTEW the protection that had to be given in the emerging competitive energy market.

MR QUINLAN: I ask a supplementary question. Since Mr Humphries has not read the article, I inform him that Mr Urban also included in the article an opinion that it was virtually impracticable to undo things and put them back the way they were. I also communicate to the Treasurer that the FPAC, after talking to the officers who were in charge of putting this joint venture together, who also share the opinion that it is probably virtually impossible to regain assets and has stated so—

MR SPEAKER: Is this a question?

MR QUINLAN: Are you aware, Treasurer, officers directly involved in the creation of this joint venture had the same opinion as Mr Urban—that it would be impracticable to undo the joint venture once it had been created? Might I add a second question? In light of Mr Kaine's question, what action has the government taken to silence this scurrilously independent and objective commentary?

MR HUMPHRIES: I do not recall any officer telling me that this arrangement was going to be impossible to unscramble. There is no doubt, however, that it would be most unlikely to be unscrambled, simply because it is an arrangement which foresees a long-term partnership which, despite tough negotiations, is based on a very generous measure of trust and confidence between the two sides, one which I think shows every sign of enduring for a long period of time. That is perhaps a brave prediction but one which I think is sustainable, given the reaction of many people in the business sector around Australia to this announcement.

I am aware that this general idea of putting public entities into a market situation is being pursued by governments around Australia, including Labor governments. You are so opposed to privatisation, Mr Quinlan, but I remind you of what your own party has done all over Australia with respect to the privatisation of assets. I mention Qantas, the TAB, the Commonwealth Bank—and the list goes on and on. They were not privatised by Liberal governments, I can assure you.

In those circumstances, I am convinced that this relatively innovative model in the ACT will be copied in other parts of Australian. It will be seen as a way of addressing the community's concerns about ownership and risk.

You people are setting yourselves up as critics of this proposal, but I predict that in the future this will be seen more and more as a viable way of dealing with those very issues of ownership and of risk. I think we will come back to this place some years from now and be able to hold up further examples of where this has happened, particularly under Labor governments, which are sensitive on that ownership question, and we will see how much this model has been taken on.

Mr Quinlan said there was no valuation of the assets that were brought forward.

Mr Quinlan: No, I did not.

MR HUMPHRIES: I stand corrected. As far as silencing critics is concerned, I have legislation on the table to reform the law of defamation, and I suspect that Mr Quinlan would like to support the legislation. I am sure he will be able to see that there is a better way of dealing with those issues in the public arena.

I stand by the ACTEW/AGL joint venture, for one very important reason: it is going to both create and retain jobs in this community.

Unemployment Rates

MR HIRD: Mr Speaker, my question is to the Chief Minister, Mrs Carnell. Can the Chief Minister confirm that the ACT now has not only the lowest unemployment rate in Australia but the lowest since before self-government.

MS CARNELL: Thank you very much, Mr Hird, for the question. The ACT does have the lowest unemployment rate for 14 years. What is it? Is it 5.2 per cent? No. Is it 5 per cent? No. Is it 4.9 per cent? No. Is it 4.8 per cent? No. It is 4.6 per cent. Our unemployment rate is the lowest since 1986, certainly the lowest since self-government, and the lowest in Australia. The ACT is the only state or territory under 5 per cent.

Mr Quinlan: We always had the lowest in Australia.

MS CARNELL: No, we did not. The Northern Territory was always lower than us. The Northern Territory is not lower than us now. In fact, we are now significantly lower than everybody else. In August 1,100 more Canberrans found work, 400 fewer Canberrans were identified as unemployed, and the participation rate rose, while the ABS found that the ACT's population continued to grow strongly, with the working age population aged 15 and over increasing by 300 last month and 5,800 last year. We see an all-time record number of jobs and the lowest unemployment rate since 1986. We see an extra 7,700 new jobs created in the past year. The 4.6 per cent unemployment rate now compares with an unemployment rate of 7.1 per cent when we came to government.

Those opposite have regularly said that the ACT scenario is good only because we are riding on the shirt tails of the rest of Australia. How do those opposite justify that assertion when the ACT's employment growth is not the same as that in New South Wales or the rest of Australia but significantly higher? How do those opposite justify that assertion when ACT retail sales growth over the last 12 months has been by far the largest in Australia, at 12 per cent? How do those opposite justify saying that it is all to do with what is happening in other states when the ANZ job statistics released this week show that the growth in the ACT was significantly higher than in New South Wales or any other state? According to *Yellow Pages*, business confidence in the ACT increased in the last quarter.

Mr Quinlan made a comment about the ATO. He has done that before. If Mr Quinlan would like to check with the ATO, they will tell him that they have fewer employees now than they had in 1996, not more.

MR SPEAKER: Order! Do not provoke the opposition, please.

MS CARNELL: Comments that the ATO has grown and that that is the only reason the ACT is doing well are obviously rubbish. We have the lowest unemployment rate in Australia, the lowest since self-government, and the highest number of jobs.

How could this press release have happened? It is headed "ACT unemployment rate rising: Carnell sitting on her hands". Was this in 1996? It was in July, two months ago. Mr Berry, the Labor shadow spokesperson for employment spoke out to confirm a worrying trend in ACT employment rates. He went on in his press release to talk about GST and what a disaster that will be for Australia. He then said:

> At the same time business confidence is slipping with employers anticipating the slowdown and we can expect to see fewer jobs created.
>
> What in the much vaunted 2000 Carnell budget has been designed to deal with this emerging problem?

The budget contained a whole range of initiatives—the research and development fund, for which we have named some of the successful recipients, a reduction in payroll tax for small to medium businesses, an increase in apprenticeships and so on. If you can achieve the best unemployment rate in Australia, the highest growth rate in jobs in Australia, the best since before self-government, you are not sitting on their hands but showing a tremendous capacity. We have done what we were elected to do. At the last election, what were the reasons for employing—

MR SPEAKER: Order! Put those down or I will deal with you.

Mr Hargreaves: Mr Speaker, I take a point of order. Some time ago you brought the house to order and said that you were going to limit answers to questions to four minutes. The Chief Minister has been on her feet for six minutes. I have allowed her a 30 per cent leeway for interjections. I would ask you to ask the Chief Minister to wind up.

MR SPEAKER: I said I would try to limit them. I take the point. The four minutes is up, but I cannot enforce it.

MS CARNELL: Mr Speaker, I did too, so I will wind up. At the last election we stood on a platform of creating jobs. In fact, we suggested that the main reason for electing a Liberal government was to create jobs. Since the election in 1995, more than 16,000 new jobs have been created. Based on that T-shirt and this press release, the reasons for electing us—that is, jobs and Mr Berry—were right.

MR HIRD: I ask a supplementary question. How has the prediction of Mr Berry, known as the guru of doom and gloom in our economy, come to pass?

MS CARNELL: It obviously has not come to pass. We have more jobs—

MR SPEAKER: It is obviously not going to be answered, because it is not a question.

Bruce Stadium—Olympic Football

MR CORBELL: Mr Speaker, my question relates to a subject that perhaps the Chief Minister should apply her growth record to, and that is Bruce Stadium. The Chief Minister has repeatedly said that the contract with HG Turf to resurface Bruce Stadium was between the company and SOCOG. Can you tell the Assembly whether the original resurfacing contract with StrathAyr was with the territory or SOCOG? If it was with the territory, what tender process was used to let the contract, and what was its value? What tender process was used to appoint the horticultural adviser, Mr Keith McIntyre, and what was its value?

MR SPEAKER: Chief Minister, can you handle all those?

MS CARNELL: I will try to handle all of those questions. It is my understanding that there was no tender process. StrathAyr turf systems were used because the initial surface we put down after the redevelopment was a StrathAyr surface. It uses a reinforced sand. At that stage the grass was Kentucky bluegrass and rye. The reinforced element of the profile was supplied by StrathAyr. They used the mesh element for the entire grass surface of the stadium. The reflex mesh element that was required for the new surface needed to match the 1997 surface, which was available only from StrathAyr. My understanding is that when it was decided that there needed to be at least some returfing and in the end the whole lot returfed StrathAyr was used because the sort of reinforced sand that was already there is available only from StrathAyr.

The new surface had to continue to provide quality drainage and the strength characteristics that were required for the stadium. The stadium had conducted something like 33 events between February and July 2000, and the grass up until the snow in May, I am advised, was getting better. But following the snow damage, the reinforced sand continued to provide a safe playing surface for the remainder of the season, and the worst areas were replaced by using a repair system known as SquAyrs. That repair system was also provided by StrathAyr. StrathAyr were used because they have a patent on the system of reinforced sand that has been the basis of the stadium since the surface was relaid in 1997.

The expert used—I think that was the next part of the question—has been working in the ACT for 25 years, from memory. He headed up areas of Urban Services—city parks, I think. He has been a consultant for Bruce Stadium and for other stadiums in Australia, and I think he has even done international consulting work. He was used by those opposite when they were in government and by Bruce Stadium since it was first built.

We have to accept that sometimes mistakes can be made and sometimes you can have bad luck. I do not think the competency of this person or the usual groundspeople at Bruce Stadium should be questioned. They have done a great job over a lot of years. Yes, this did not work. What do we do about that? Do we suggest, as it seems Mr Corbell is trying to, that we try to destroy the credibility of the person involved? The fact is that he has done a lot of years of very good work.

MR CORBELL: I ask a supplementary question. I think I will be using a standing order after question time to address that one, Mr Speaker. My supplementary question is: was the Stadiums Authority consulted about either resurfacing operation? If so, was there any advice from the authority. If there was, will you table it?

MS CARNELL: The Stadiums Authority were involved with both decisions.

Gambling and Racing Commission Web Site

MS TUCKER: I direct my question to Mr Humphries. It is about the gambling commission. On the webpage they have instructions to applicants. I realise you will not have the section in front of you, but I will let you know what my question is about. It is on page 10, point 5. You can take the question on notice if you do not want to answer it today. The instructions to applicants state:

> 5. A detailed Business Plan of the proposed business of a licensed provider. The business plan should also include:
> a submission describing …
> If the applicant requires guidance as to the format and content of a Business Plan, they may contact Ernst and Young (Brisbane Office—Australia) who can provide assistance.

My question is: do you support Ernst and Young getting this special attention in regulations of the gambling commission? I would be interested in your response on how that sits with your view of competition policy and also your response in light of the fact that, as I understand it, Ernst and Young developed the guidelines for the gambling commission.

MR HUMPHRIES: Mr Speaker, I am not sure I entirely understand the question. In any case, with the level of detail required, I will have to be take it on notice. I do not know what relationship the ACT Gambling and Racing Commission has with Ernst and Young. It may be that they have been engaged as consultants. As you are aware, for these sorts of things, there is extensive use of consultants. That is entirely appropriate. All of the agencies of the ACT government, even the biggest of our government operations, are relatively small on a national scale. We cannot possibly have within our own ranks the necessary level of expertise on particular issues. I do not know what qualifications Ernst and Young had to develop the guidelines Ms Tucker referred to, but I am sure that if there is some consultancy, for example, it has been let on an appropriate basis, and it is going to be the kind of approach which will best provide the Gambling and Racing Commission with the background it needs to conduct this kind of operation. I will take the question on notice.

MS TUCKER: I ask a supplementary question. It is not the issue of using a consultant to develop the guidelines but the fact that they have an advertisement in the regulations to say that they will help applicants to develop a business plan. I would be interested in a response to private providers who have expressed concerns to me about the fact that Ernst and Young is mentioned in regulations as doing this work. There are other private providers in the industry who would be happy to get the work of assisting applicants to produce a business plan.

MR HUMPHRIES: I understand what Ms Tucker is saying. I will take the issue on notice. You will be aware from the question Mr Quinlan asked of the Chief Minister yesterday about the Business Gateway operations of the ACT government that sometimes we let contracts for private sector operators—in this case, I think it was the Canberra Business Council or the Chamber of Commerce—to allow them to take on certain roles with respect to assisting people who are dealing with particular areas of the ACT government. This may be an example of that. If it is, then it may be appropriate for that to be the case. Mr Speaker, I will take the issue on notice and find out for Ms Tucker.

Needlestick Injuries from Recycled Waste

MR HARGREAVES: Mr Speaker, my question, through you, is to the Minister for Urban Services. Minister, I wrote to you in July regarding a series of needlestick injuries at the Visy/Pacific recycling plant in Hume. In your response you said that Visy and Pacific Waste took appropriate action to divert the affected material directly to the landfill. I understand that three working groups were to be established to address various issues. Have these working groups met and, if so, how often, and what has been the result of the meetings?

MR SMYTH: I thank the member for his question. As a result of some needlestick injuries and some contaminated waste that was collected, concerns were raised. As I promised, I brought together all the parties that had an interest in this question, to make sure the seriousness of the issue was addressed. As an outcome of that meeting, three working parties were to be established. They were. I understand that two of them have met. The third has either just met this week, or will meet early next week.

MR HARGREAVES: I ask a supplementary question, Mr Speaker. Have you notified Revolve, which has workers scavenging the tips, that there is a much higher risk to their safety now that you have diverted the affected material directly to the landfill?

MR SMYTH: Under the contracts, a certain amount of recyclable material contaminated at the point of source can be directed to the tip face. My understanding is that it is way below the allowed level. The contractors do a very good job of trying to ensure that as much material is recycled as is possible. I would have to take on notice the question of whether or not Revolve was notified. The health minister tells me that some 25 million needles are consumed Australia-wide each year, and so far no-one has contracted HIV or hepatitis C from a discarded needle. That is not to say that it might not happen, and it is not to say that it is not serious.

Olympic Football—Bus Fares

MR OSBORNE: My question is to the Minister for Urban Services, Mr Smyth. Minister, the normal cost of a return park and ride ticket with ACTION from Tuggeranong to the AIS is $6.50 a day, or an all-day ticket costs $8.40. For the Olympic soccer, the government is offering a $2 return park and ride fare from any bus interchange in the city to the AIS, which is $4.50 less than the cheapest normal bus fare. Given the ACT government controls the parking at Bruce and has already provided a huge disincentive to travel to the stadium by car through charging a $14 parking fee, why are you offering such a massively discounted bus fare which will have to be

subsidised by the taxpayer? Whose budget is the subsidy coming out of—ACTION's, the government's or the money allocated for the Olympics?

MR SMYTH: These are the green Olympics. It is one of the reasons that Sydney and, through Sydney, Australia were awarded the Olympics some seven years ago. All cities classified as Olympic cities have endeavoured, as we have, to make sure that environmental considerations are at the forefront. The government played its part in making sure we got the Olympics here and that we will have Olympic soccer. As part of that it had to make sure it had in place an adequate transport plan. Sydney has the Olympic RTA to make sure that this happens. Part of our commitment is to make sure that transport for the Olympic soccer runs smoothly, as it does for Raiders games and Brumbies games and to make sure that ACTION provides services. This is part of our commitment. We think it is worth while.

If my memory serves me correctly, there are about 3,000 spaces at Bruce Stadium. That number will not be adequate for Olympic events. It is therefore appropriate that we provide other ways of making sure that people can get there. The best way, of course, is to take an ACTION bus.

Mr Osborne asked about the special fares for the Olympics. ACTION has to run a commercial bus service. We always aim to make fares as cheap as we possibly can, but any revenue forgone in the day-to-day operation of ACTION is made up through the Assembly and the appropriation bill. Last year we had to put some extra money in to make up the shortfall.

We think it is worth while to support the Olympics through this program. That is why there are six park and ride stations. That is why there is the cheap fare—so that people can get out there and enjoy the Olympics.

MR OSBORNE: You did not like that question, did you, Minister? I ask a supplementary question. Correct me if I am wrong, but I think the answer was that the money is coming out of ACTION. How much money has been budgeted for this discount? What other significant changes to ACTION bus routes and fares have been made for the Olympics? Is it true that some of our buses are contracted for use in Sydney for the Olympics?

MR SMYTH: We have a commitment to the Olympics, not just here in Canberra but in Sydney as well, and we want to play our part. I am told that something like an additional 4,500 buses are going to Sydney to help with the transportation of the tens of thousands of international and national visitors who will be there. Our contribution is about 60 buses. Fifty of those will be standard buses; 10 will be special needs transport. Because it is school holidays, that is the number of buses we can spare. Every spare bus we do not need we will send to Sydney.

When the Paralympics are on, no ACTION buses will go to Sydney, because we need them all here to make sure that there is no disruption to the normal services we provide. That is our commitment to the people of Canberra, and we will ensure that adequate public transport is available.

Mr Osborne asked where the money is coming from. If the buses were full all the time, then you could afford to offer much lower fares. We expect high usage of the buses during the Olympic period, allowing us to give a discounted fare. It is also appropriate as an encouragement on a special occasion like this, when we know that a large number of people are going to come from several sources to one point. Instead of getting caught up in a traffic jam, people should be able to get to the Olympic stadium as quickly and as easily as they can. The best way will be to take an ACTION bus.

Hospital Costing Systems

MR RUGENDYKE: Mr Speaker, my question, through you, is to the Minister for Health and Community Care. Yesterday I asked the minister a question concerning the disputed hospital cross-border payment bills for New South Wales patients who are treated in our hospital. The minister advised that the disputes were presently the subject of a mediation process. We are waiting for further detail from the minister. It appears that the ACT will not receive all the money it is owed, and I expect that this will be a substantial amount. Minister, I understand that New South Wales use clinical costing systems called Transition and Trendstar that enable hospitals to cost individual services and to individualise bills. New South Wales would be able to accept the ACT's statement of costs if we used one of these clinical costing systems, because that would create common, consistent and comparable benchmarks. Does the ACT use either the Transition or Trendstar clinical costing systems?

MR MOORE: Mr Speaker, the systems that a hospital uses as part of its costing processes determine a whole range of issues. The most important issue for us in our patient management system, which includes costing, is being able to identify a single patient identifier, which we usually refer to as the patient master index. That is the single most important factor we are working on, although it would be much easier if we were using one of those systems to provide information to New South Wales. There are other reasons why these decisions are made.

I do not believe your suggestion that we will not receive from New South Wales the full return from the work we do is true. We will make sure that we identify each cost-weighted separation or each average occasion of service we have provided, and that information will be put to New South Wales and we will be paid on that basis.

We are in the process of going through some of those cost-weighted separations manually. But we will do it to ensure that we get the money. In doing that, we will also double-check and see what our systems are and make sure that we can improve our systems. We are going through a constant process of improving our systems in both our public hospitals and in Community Care. The aim is still to get a patient master index, because we believe we can get improved patient care. Our highest priority is improved patient care.

MR RUGENDYKE: I ask a supplementary question. Can you confirm that the Canberra Hospital has had a copy of the Trendstar clinical costing system since 1993 and explain why it has not been put to use in the seven years since?

MR MOORE: I do not know whether it was 1993. I certainly know that we had Trendstar available to us, but the implementation of that program was going to be extraordinarily expensive. The briefing I received, probably a year ago or earlier, was that the system was out of date and that to spend the money to implement that system at the cost of other benefits and other systems would be inappropriate; that there was some resistance to it from a range of workers within the hospitals; and that there would be a better way of dealing with the approach.

The hospital brought in an adviser to check the technology we were using to make sure we were using the best technology to deliver a whole range of outcomes. The difficulty is that if you look at just one outcome you can often get a particularly brilliant solution for that outcome, but it may not work with other outcomes. We are going to make sure we identify the full range of outcomes we want, prioritise them and then deliver the best possible system, not just there but right across our health information network.

Outsourcing

MR BERRY: My question is to the Chief Minister.

Ms Carnell: Are you going to waste your question again today?

MR BERRY: The Chief Minister asks whether I am going to waste my question. If I get the usual quality answer, I suppose I am. Ask for a smack in the ear and you always get one. On 5 September the Federal Court found it was illegal to contract out work to a lower cost service provider on the basis of reducing or eliminating pay and conditions enjoyed by in-house employees. This practice, according to reports, was found to breach the freedom of association provisions of the Workplace Relations Act, because the decision to outsource the work was motivated by dissatisfaction with employees' award entitlements—that is, costs. It has also been held in another decision of the courts that contractors brought into an enterprise will usually need to be paid under the same conditions as existing employees. In light of these decisions, will you now conduct a formal review of all your outsourcing decisions to ensure that the relevant public sector awards and agreements are being applied to outsourced work and contract labour, consistent with the rulings of the Federal Court?

MS CARNELL: Mr Berry's interpretation of the law and legal findings has been traditionally extraordinarily bad. I am not willing to take Mr Berry's interpretation of the law, and on that basis the answer would be no.

Currong Flats

MR WOOD: Mr Speaker, my question is to the minister for housing. Minister, this week you presided over a function at the Boomerang Centre at which the completion of the refurbishment of the Allawah and Bega Flats was properly celebrated. I know that residents tolerated the temporary inconvenience because the end result was very satisfying. Can you tell me what funds are allocated for the refurbishment of the adjacent Currong Flats and the timetable for that work?

MR SMYTH: Mr Speaker, the opening to Mr Wood's question is incorrect. There was no formal function at the Boomerang Centre. The function was at the Bega Flats because the tenants were so delighted with the outcome that they were very pleased to put on display the units that have now been provided for them. I would thank the young lady and child that allowed us to go into their flat so that we could show off the good work ACT Housing had done. I understand they may have gone to the Boomerang Centre afterwards for a cup of tea.

I do not have the detail of the next stage of that project with me. The government, in this year's budget, announced some $60 million worth of renovation for our big flats over the next five to 10 years. We now have to work out how we can make that program work, how we can do it the quickest and how we can do it the best.

We employed Ecumenical Housing to look at our flats and tell us which ones were worth keeping, which ones we should dispose of as no longer meeting reasonable need and then how to go about renovating those we keep. The important thing is that we have a strategy in place to upgrade all of these flats. It started in the first Carnell government under the then housing minister, Mr Stefaniak. This government is committed to providing appropriate quality housing of the style which the tenants require and in the locations they desire.

MR WOOD: I ask a supplementary question. You will get back to me with those details, minister, I take it. As you do, would you note what is going to happen to the lifts at Currong Flats. You would know, I have no doubt, that they break down too often, sometimes with people in them. Understandably, some people get very nervous about that. Ecumenical Housing said that those lifts had reached the end of their economic life. They have been there a long time. Will you come back with an answer about Currong Flats generally and about the lifts specifically.

MR SMYTH: I would be delighted to get back to the member as soon as those details have been worked out.

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

Business Development

MS CARNELL: I would like to give further information on a question asked by Mr Quinlan yesterday. Mr Quinlan asked about somebody who rang up and got the wrong phone number and about a few other things. When the ACT government switchboard receives business-related inquiries, they refer them to either ACT Business Gateway or to organisations offering assistance and direction to the ACT business community.

On this occasion they referred the client, firstly, and unfortunately, to a number that had been disconnected and, secondly, to the Chamber of Commerce and Industry. The switchboard contact list has been updated, and I thank Mr Quinlan for alerting us to the problem. They have been asked to refer all future business-related inquiries to the Business Gateway operators. However, there will be occasions when the Chamber of Commerce and Industry will be the appropriate referral point and will be able to assist.

The Business Gateway is also available through the 1800 244 650 telephone service that is provided by trained operators. The operators receive business-related calls on the 1800 number and either provide the information requested or refer the clients to an appropriate agent or organisation.

The Business Gateway operators do no redirect potential businesses to the chamber of commerce unless they are the appropriate referral for the particular inquiry.

The ACT government is currently assessing three tenders for the provision of a new business advisory service. The outcome of this tender process will be known in early October. This service will replace the current Links to Business and the business mentoring programs which conclude at the end of December this year. The new business advisory service will start from 1 January 2000. In the meantime, clients requiring business advice will be referred to Links to Business and peak bodies such as the ACT Chamber of Commerce and Industry where appropriate.

Department of Health and Community Care—Chief Executive

MR MOORE: I had questions on the same issue from Mr Hargreaves on Tuesday and Mr Stanhope yesterday. The questions related to the executive search firm Morgan and Banks. Mr Hargreaves asked:

> 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 Hargreaves, that assertion is incorrect. At present Morgan and Banks has charged $23,940 for its professional fee. In addition, media and Internet advertising costs have totalled $11,150, I am informed. The recruitment process for this position is yet to be finalised—

Mr Quinlan: So it is only $35,000 or $36,000. You were way out.

MR MOORE: I am glad you mentioned that, Mr Quinlan. Mr Quinlan interjects, "It is only $35,000. You were way out." Mr Hargreaves, you asserted $60,000.

Mr Hargreaves: No, I did not assert anything.

MR MOORE: You asked:

> Can the minister confirm that the company has so far charged $40,000 for its work and is expected to receive another $20,000?

No, that assertion is incorrect. The recruitment process for the position is yet to be—

Mr Hargreaves: It was not $40,000; it was $33,000.

MR MOORE: No, $60,000. Forty plus 20 makes 60. So you are out by about 100 per cent. The recruitment process for the position is yet to be finalised, and a final account has not been issued.

Mr Stanhope asked me seven questions. That raises a issue about how many questions somebody can ask. I will run through them one at a time. The first one was:

> Can the minister tell the Assembly what was the process by which Morgan and Banks was appointed?

The information provided for me by the chief executive of the Chief Minister's Department is that Morgan and Banks was selected by the chief executive of the Chief Minister's Department to complete the executive search function for the new chief executive, Department of Health and Community Care. Morgan and Banks was selected as it has extensive experience and knowledge in executive recruitment in the health field.

Question two:

> What tasks did the brief to Morgan and Banks require the company to undertake?

The scope of work was developed in consultation between the chief executive of the Chief Minister's Department and Morgan and Banks. A structured proposal from Morgan and Banks was reviewed and agreed with the chief executive of the Chief Minister's Department.

Question three:

> Did the brief require Morgan and Banks to prepare, for instance, the selection criteria, the job profile, ad copy or selection panel questions?

Morgan and Banks was required to prepare an assignment specification in consultation with the chief executive, Chief Minister's Department. The specification was to include background information about the department, identify the person and position competencies and include specific information about the terms and conditions of the engagement. This information was required to be prepared in consultation with the chief executive, Chief Minister's Department and then the Department of Health and Community Care.

Morgan and Banks was also required to prepare and place an advertisement for the position; screen and assess resumes against the assignment specification; complete an executive search for potential candidates, including the interrogation of the company's national databases; prepare a schedule of candidates following the closing date of applications and completion of the initial search; discuss the quality of the candidates with the chief executive, Chief Minister's Department prior to shortlisting; prepare interview reports in relation to recommended candidates; arrange suitable times for interviews; document reference checks in relation to preferred candidates; negotiate the offer of appointment with the selected candidate; notify all candidates of the outcome of their applications and provide oral feedback to unsuccessful interviewees; and follow up with the successful applicant and with the chief executive, Chief Minister's Department following the appointment.

Questions four and five were:

> … could you explain in your answer what role your department played in the search for a new CEO? Did the department, for instance, work on the selection criteria, job profile, ad copy and selection panel questions?

The answer is that the department worked on the selection criteria and job profile.

Question six:

> Would you be prepared to table the brief to Morgan and Banks …

The proposal developed by Morgan and Banks at the request of the chief executive, Chief Minister's Department, can be provided to the Assembly but not today, because I do not yet have the agreement of Morgan and Banks. We will seek that.

Question seven:

> … are you confident that the company had sufficient work to do to justify its consultancy fee in relation to this appointment?

Yes.

MR SPEAKER: I observe that seven-part questions will lead to that sort of answer. It is quite impossible for ministers to be expected to answer seven-part questions without notice. We have a notice paper. I suggest that you use it sometimes.

Needlestick Injuries from Recycled Waste

MR SMYTH: Mr Hargreaves asked about the meetings to look at the issue of needlestick injuries. I am informed that the third group is meeting now on level eight at Macarthur House, and Revolve is represented at that meeting.

Olympic Football—Bus Fares

MR SMYTH: Mr Osborne asked about the bus arrangements for the Olympics. ACTION has a contract with the Olympics to provide the bus service. The contract is offset by the fares collected, so the Olympics will pay for the remainder of that service.

PERSONAL EXPLANATIONS

MR BERRY: Mr Speaker, I seek leave to make a personal explanation pursuant to standing order 46.

MR SPEAKER: Proceed.

MR BERRY: During question time the Chief Minister drew attention to unemployment rates in the ACT, which happily are continuing below the national figures.

Ms Carnell: Mr Speaker, this is not a personal explanation.

MR SPEAKER: Yes, I am watching. Are you referring to your media release?

MR BERRY: I am coming to that.

MR SPEAKER: Come to it now.

MR BERRY: Okay. The Chief Minister drew attention to welcome low unemployment rates in the territory. If she does not want to—

MR SPEAKER: Resume your seat. This is not a personal explanation, Mr Berry, unless you relate it to that statement.

MR BERRY: I refer to my press release, Mr Speaker. Mrs Carnell conveniently forgot to mention that the only time the ACT was above national averages was when she attacked her own public service along with her mates—

MR SPEAKER: Sit down. There is no personal explanation whatsoever. I would be very careful for the rest of the afternoon, Mr Berry. Try any more of those tricks and you will be out.

MR CORBELL: Mr Speaker, I seek leave to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MR CORBELL: During question time the Chief Minister, in response to a question from me, said that I or other members of the Labor Party—I certainly took it that she was referring to me—were attempting to downgrade or criticise the expertise or otherwise of the horticultural adviser appointed in relation to the Bruce Stadium turf. I was doing no such thing—

Mr Humphries: Mr Speaker, I take a point of order. You have ruled before that personal explanations have to be based on a direct criticism of a member. General criticisms of the Labor Party do not qualify any individual—

Mr Corbell: I asked the question.

Mr Humphries: I know but Mrs Carnell did not say that you personally criticised the ground keepers. She referred to general criticism—

Mr Corbell: Mr Speaker, on the point of order—

Mr Humphries: I have not finished my point of order.

MR SPEAKER: He has not finished the point of order yet. Just a moment.

Mr Corbell: Do not let him debate it; just rule on it.

Mr Humphries: Mr Speaker, you have ruled that a general description such as "The Labor Party believes this" or "The Liberal Party believes that" is not sufficient basis for a member to rise and say, "I have been personally misrepresented" because that was not personally directed at them. That was exactly the case in this instance.

Mr Berry: Mr Speaker, can I assist you in this matter? The Chief Minister, during question time, quite clearly referred to Mr Corbell in that context.

Ms Carnell: I did not.

MR SPEAKER: The Chief Minister denies it.

Mr Corbell: Mr Speaker, I specifically recall her mentioning my name in relation to that allegation. I simply want to put on the record that at no stage in my question was any improper imputation meant or directed.

Mr Humphries: Mr Speaker, could I have your attention please? I have made a point of order. I have to ask you for a ruling.

MR SPEAKER: I uphold the point of order.

MR SMYTH (Minister for Urban Services): I rise under standing order 46. Mr Corbell said yesterday in his speech on the motion on planning that half a suburb a year is disappearing through dual occupancy development. He mentioned around 500 dwellings a year. That is a quote from *Hansard*. It is incorrect. Last year 137 dual occupancies were approved across Canberra. The year before that it was 135 dual occupancies. I am sure Mr Corbell did not intend to mislead the Assembly, but I would ask that he withdraw and apologise for using incorrect figures.

He also said in relation to variation 114 to the Territory Plan:

> … the direction of this Assembly was clear—it did not say "review it for the purposes of seeing whether or not dual occupancy should happen in Red Hill". This Assembly asked you to give a direction to the planning authority, which you have done, to ensure that dual occupancy does not occur in the old Red Hill heritage area.

The motion said:

> … Review of the Territory Plan as it relates to Variation 114 Heritage Places Register—Red Hill Housing Precinct to provide—

Mr Berry: Mr Speaker, is this a personal explanation, or is this a ministerial statement? It sounds like a ministerial statement to me.

MR SPEAKER: Is this a personal explanation?

MR SMYTH: It is, because Mr Corbell has misled the Assembly and he needs to withdraw and apologise.

MR SPEAKER: Order! Now, come on! Just a minute. That is not a personal explanation, Mr Smyth.

Mr Corbell: I take a point of order, Mr Speaker. That is a substantive allegation that can only be made by way of substantive motion. I would ask the minister to withdraw it.

MR SMYTH: I apologise, Mr Speaker. I did say "inadvertently misled the Assembly". I would ask him to withdraw.

MR SPEAKER: No, I am sorry. This is not a personal explanation.

Mr Corbell: He can do it by substantive motion. Mr Speaker, I ask you to direct the minister to withdraw the claim.

MR SPEAKER: Please withdraw the suggestion that he has misled the Assembly.

Mr Smyth: I am happy to withdraw, Mr Speaker.

MR SPEAKER: Secondly, Mr Smyth, this is not a personal explanation. You are now quoting facts and figures. If it is true that Mr Corbell was wrong about them, then it should be Mr Corbell who is standing up saying, "I am sorry. I quoted the wrong figures." If you want to make a statement on the matter so we can have a full debate, then I am happy for you to move the appropriate motion. Move a motion. We will have a debate on it.

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 Planning and Urban Services on 8 September 2000 in relation to its inquiry into the implementation of Variation No 64 to the Territory Plan (Latham shops), dated 6 September 2000.
>
> The Standing Committee on Planning and Urban Services on 15 September 2000 in relation to its inquiry into the Lake Tuggeranong Master Plan, dated 6 September 2000.
>
> Study trip—Report by Mr Paul Osborne, MLA—Australian Drug Summit 2000—Parliament House, Sydney—June 2000.

Mr Humphries presented the following paper:

> **Petition—out of order**
>
> Burnie Court Redevelopment Project—Mr Corbell (980 citizens).

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Report on Utilities Bill 2000 and Utilities (Consequential Provisions) Bill 2000—Government Response

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.43): I present the following paper:

> Planning and Urban Services—Standing Committee—Report No 51—Utilities Bill 2000, Utilities Consequential Provisions Bill 2000 (*presented 29 August 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

In presenting the government's response to the report, I would like to thank the committee for the work undertaken. The package is extensive and the government is very pleased with the thrust of the report and the committee's general support for the direction of the regulatory reforms. The committee also noted the overall support amongst utilities and community interest groups for the broad intentions of the government's package.

The committee made 14 recommendations and each is addressed in detail in the government's response. The government agrees with the majority, but not all, of the committee's recommendations. Without duplicating all that is in the government's response, I would like to address a number of recommendations.

Recommendation 3 of the report requested that the government ensure, through consultation with ACTEW and AGL, that the bills were not inconsistent with national arrangements. The government has already undertaken this consultation and will table a number of minor amendments to the bills. These amendments are primarily for avoidance of doubt and to remove the potential for any inconsistencies with national arrangements in the future. The amendments will be released prior to debate on the bills.

Areas where the government has agreed with the committee's recommendations include: that exemptions from licence conditions be disallowable by the Assembly; ensuring that the Essential Services Consumer Council includes a member with experience in assisting or working with people suffering financial hardship; reviewing the implementation of the regulatory package after 18 months; and the need to encourage utilities to establish consumer committees.

One area where the government has not agreed with the committee is on amending the bill to provide the public with the ability to appeal decisions of the ICRC. Neither the government nor utilities or community groups want unfettered public access to appeals as it may lead to repeated appeals and abuse of the process, with the potential to greatly increase regulatory costs.

The bill will instead be amended to increase the scope for public participation in the ICRC's decision-making process. That will address the concerns of the committee and should meet the majority of the needs expressed by community groups.

Again, I thank members of the Planning and Urban Services Committee for their work on this important package of legislation.

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

HOUSING AGREEMENTS
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services) (3.45): For the information of members, I present copies of the following papers:

> Commonwealth State Housing Agreement as entered into between the Commonwealth of Australia and the Australian Capital Territory and operative from 1 July 1999.
>
> Bilateral Agreement between the Commonwealth of Australia and the Australian Capital Territory—1999-2003.
>
> National Housing Data Agreement between the Commonwealth, States and Territories.

I seek leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, consistent with the provisions of the Housing Assistance Act 1987, I have tabled the following documents: the Commonwealth-state housing multilateral agreement, a bilateral agreement between the ACT and the Commonwealth government, and a national housing data agreement.

Under the Commonwealth-state housing agreement, the ACT and Commonwealth governments will provide a total of approximately $127 million to fund housing assistance in the ACT over the life of this agreement. This includes approximately $18 million compensation for the impact of the GST.

The bilateral agreement was developed following extensive discussions between Commonwealth and ACT housing officials and wide consultation with the community. Members of this Assembly will recall that I sent out an earlier draft for their comments in December 1999 and recently provided them with a copy of the final document.

The national housing data agreement provides for the establishment of the national infrastructure and decision-making processes needed to integrate and coordinate the development of consistent national housing information. It will also lead to a national performance measure framework for all programs under the CSHA.

The strategies contained in the bilateral agreement reflect the ACT government's priorities, including: the program to acquire 200 units of older persons' accommodation over three years; the expansion of the community housing sector; improving the amenity and condition of properties and strengthening communities at the major public housing

multi-unit sites; and continuing to improve the amenity, location and condition of ACT Housing dwellings and so meet minimum residential tenancy standards.

Mr Speaker, the government is making substantial headway in achieving the outcomes set out in the bilateral agreement. The acquisition of 200 additional dwellings for older persons will be achieved this financial year. Two hundred properties have been transferred to Community Housing Canberra Ltd and the further transfer of properties to community management is being evaluated.

In the 2000-01 budget the government announced a major—$60 million—rejuvenation of the ACT's multi-unit sites over the next 10 years. The program will provide a higher quality and more appropriate standard of accommodation, as well as improve the overall amenity of the sites, while reducing concentrations of disadvantaged public tenants. This strategy, together with the provision of appropriate support services, will result in a more stable environment for young people in particular to participate in training, education and employment. The ACT will explore opportunities for linkages with other ACT and Commonwealth programs in these areas.

With the signing of the agreement, arrangements have been made to gazette notification of the making of the multilateral and bilateral agreements in accordance with the Housing Assistance Act 1987. Members of the public may obtain copies of these documents from my department. They will also be accessible on the housing page of the Urban Services web site following redevelopment of the site. I move:

> That the Assembly takes note of the papers.

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

LAND (PLANNING AND ENVIRONMENT) ACT—VARIATION TO THE TERRITORY PLAN—AREA SPECIFIC POLICY B11 NORTH CANBERRA
Papers and Ministerial Statement

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

> Land (Planning and Environment) Act, pursuant to section 29—Variation (No 139) to the Territory Plan, relating to the Area Specific Policy B11 North Canberra—Proposed additional uses, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I ask for leave to make a short statement.

Leave granted.

MR SMYTH: Variation No 139 to the Territory Plan proposes a revised policy position for the B11 area in North Canberra and revises the existing definition for a section. It proposes to make provision for a limited range of commercial activities by adding business agency, office, restaurant and shop uses to the existing residential land use

policy. The variation requires that these uses be permitted only where they form part of an integrated mixed-use development which includes multi-unit housing.

The variation limits the gross floor area for these uses to a total of 100 metres square in any one section and sets a threshold for timing of development for any commercial use in relation to development of multi-unit housing within the section to when 75 per cent of the section has been developed for multi-use housing, unless otherwise specified in an approved section master plan. This requirement also applies to those sections which commenced redevelopment prior to the requirement for section master plans introduced by variation No 109.

The Standing Committee on Planning and Urban Services considered the draft variation and in report No 52 of July 2000 endorsed the variation. As always, Mr Speaker, I thank members of the Standing Committee on Planning and Urban Services for their good work and I thank the chairman for the amount of work that the committee actually gets through. I now table variation No 139 to the Territory Plan for additional uses in the area specific policy B11 North Canberra.

COMMISSIONER FOR THE ENVIRONMENT ACT—REPORT—TOTALCARE INCINERATOR—REVIEW OF PROPOSED STANDARDS—PAPER AND GOVERNMENT RESPONSE: CLINICAL, HOSPITAL AND OTHER WASTES—ALTERNATIVES TO INCINERATION
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services) (3.52): Mr Speaker, for the information of members, I present the following papers:

> Commissioner for the Environment Act, pursuant to section 22—Review of proposed standards for air emissions and other waste products and monitoring requirements for the Totalcare incinerator, dated June 2000, together with the government response.
> Clinical, hospital and other wastes—Assessment of technologies as alternatives to incineration for the treatment of clinical, hospital and other wastes, prepared for Environment ACT by Wayne A Davies, Consulting Engineers, dated May 2000.

Mr Speaker, I am pleased to table today the government's response to the ACT Commissioner for the Environment's review. In March 2000, I requested that the Commissioner for the Environment undertake this review of the proposed standards for emissions and waste products, together with monitoring requirements for Totalcare Industries Ltd's waste incinerator at Mitchell. That was in response to concerns raised by the community and ACT Legislative Assembly members about the effect on the local environment of emissions from the incinerator.

I am pleased to report that the standards for gaseous emissions proposed by Totalcare for the operation of the incinerator are, to quote the commissioner, "comparable with or better than those for generally similar operations in Australia and overseas". They will be an improvement in every case on the current operating standards. The proposed standards will ensure that the incinerator operates to current best practice.

The commissioner concludes in his report that, provided Totalcare upgrades the facilities to meet the new standards and ensures correct combustion operations, the plant will minimise emission of contaminants to the environment. Indeed, it should be noted that the proposed dioxin/furan emissions standard is world's best practice.

The commissioner did find that a number of current operational standards, particularly relating to other wastes, such as bottom ash and liquid wastes, require more accurate specification. The government has responded positively to the commissioner's recommendations and will ensure that the actions indicated are implemented quickly in close consultation with Totalcare.

In regard to recommendation 8, which relates to the measurement of dioxins and heavy metals in soil around the plant, the government can only agree in principle at this stage. It is impracticable to investigate background levels at present as there are no established benchmarks for natural levels of dioxins. The federal government is moving to examine this issue. However, it will be some time before there are any firm conclusions on which to base local monitoring work.

I formally table the government's response to the Commissioner for the Environment's report on a review of proposed standards for air emissions and other waste products and monitoring requirements for the Totalcare incinerator, pursuant to section 22 of the Commissioner for the Environment Act 1993. I am also pleased to table for the information of my Assembly colleagues a report recently commissioned by Environment ACT examining alternative technologies for the disposal of clinical waste. Whilst this report details the relevant benefits and costs of alternative methods, it concludes that in the short to medium term incineration remains the most viable technology available to us. I move:

> That the Assembly takes note of the papers.

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

INDIGENOUS EDUCATION—PERFORMANCE REPORT
Paper and Ministerial Statement

MR STEFANIAK (Minister for Education) (3.56): Mr Speaker, for the information of members and in accordance with the resolution of the Assembly of 24 May 2000, I present the following paper:

> Indigenous education—Six-monthly performance report, September 2000.

I ask for leave to make a statement about the report.

Leave granted.

MR STEFANIAK: Mr Speaker, I am pleased to present the first six monthly report on the government's performance on indigenous education. As I have noted in the overview to the report, improving educational outcomes for indigenous students is a very real issue in the ACT, as it is across Australia. This government is committed to making concerted

efforts towards improving these outcomes. The strategies and programs outlined in this report are focused on achieving that.

This report contains a broad range of information and accompanying data. It reflects the significant effort across the Department of Education and Community Services which is supporting and driving the improvement of educational outcomes for indigenous students.

There is no simple answer to improving outcomes in indigenous education. The reasons that the educational achievements of indigenous students lag behind those of the overall student population are complex, and so therefore are the solutions. Reflecting this complexity, the report on the performance on indigenous education covers details on specific education programs, human resource management initiatives, and literacy and numeracy performance and initiatives.

Mr Speaker, it is very important for members to note that literacy and numeracy data is included in the report I am presenting today. It will also be possible to report on literacy and numeracy progress in the next six monthly report because we will have the 2000 assessment data. However, members should note that as assessment is done annually the following report will not include this information.

Two special forums have just been held—on 24 and 25 August this year—for the indigenous community and school principals. The forums were a joint initiative of the ACT indigenous education consultative body and the department. Professor Paul Hughes, an eminent indigenous Australian educator, led the forums. The theme for the school principals and indigenous community forum was "An indigenous education compact for schools and community". I would like to advise members of the outcome of the forums.

A working group composed of school principals, departmental officers and Aboriginal and Torres Strait Islander community representatives will be formed to develop an indigenous education compact. The compact will demonstrate a shared commitment between schools and the indigenous community to improve educational and social outcomes for indigenous students.

That is a very important part of work to improve outcomes for indigenous students. It is important because it is crucial to ensure that the indigenous community is an intrinsic part of our overall strategy. The compact will demonstrate a shared commitment between schools and the indigenous community. This commitment will direct much available knowledge and expertise towards improving both educational and social outcomes for indigenous students and to acknowledging that schools need to be more culturally inclusive.

A similar strategic group has been formed to develop strategies towards achieving the performance targets in the indigenous education strategic initiative program agreement and the national indigenous English literacy and numeracy strategy. These groups have been requested to develop the compact and strategies towards performance targets no later than November this year.

The establishment of these groups is complemented by Aboriginal student support and parent awareness committees, which are now active in 80 per cent of government schools. I am pleased to advise members that the feedback received from the indigenous community is supportive of the policies and directions we have set.

I do not wish to take up members' time unnecessarily by going through the report in great detail at this time, but some aspects deserve mentioning today. Much was made in the media and in this place earlier this year of the lack of available data on outcomes for indigenous students. The report I present today notes that a new and better data collection mechanism has been established in my department, along with improved procedures to report this data. That was a step that was well in hand when we debated the issue in this place in May this year, and we now have better procedures well in place.

In addition, as members can see for themselves by reading the report, we have implemented strategies across the department to provide outcomes for indigenous students. In education programs we have upgraded the position of the leader of the indigenous unit to deputy principal level, reflecting an appropriately enhanced emphasis on this important role, and appointed an indigenous person to this position.

The work of this unit with schools and the indigenous community—I think the Aboriginal education consultative group has also played a role here—has resulted, amongst other things, in a decrease in absentee days for indigenous students from an average of 30.7 per student per year in 1998 to 6.7 per student per term in 1999. Before anyone jumps in and says that that is a huge decrease, I did say "per term". On a per annum basis it is 26.8 per cent per student. However, that is still about a 12 per cent decrease in the figure for the previous year.

On that point, I propose to provide future reports on a per student per term basis because of the six monthly nature of the reports to the Assembly, whilst reports to the Commonwealth will be on a per student per annum basis. The decrease there in the number of absentee days is a pleasing result.

We have required the indigenous unit and the literacy and numeracy team to work with schools to include an explicit commitment in each school literacy plan to improving the literacy of indigenous students. We have also worked to increase activity to raise the proportion of schools offering indigenous studies. That has worked, as members will see from the report. In 1999, more than 75 per cent of our schools offered indigenous studies, compared with about a third of the schools doing so in 1997. More importantly, it is now an assessable part of the school development process to ensure that Aboriginal and Torres Strait Islander perspectives are included across the curriculum—in all eight key learning areas.

In human resource management we have increased the number of indigenous staff in education. For instance, we have nominated three identified indigenous teacher positions for this year and included a statement in all recruitment advertising encouraging indigenous applicants. We have briefed teacher recruitment panel members about the importance of determining indigenous cultural awareness in prospective teachers.

We have given increased attention to the professional development of staff involved in indigenous education by developing programs that provide indigenous perspectives in training for all teachers where needed and by providing professional development for staff in the indigenous unit. This includes the attendance by principals at the indigenous forum held on 25 August where, in addition to the principals becoming part of the indigenous compact, the importance of the principals' leadership in ensuring indigenous cultural inclusivity was emphasised.

Whilst it is important to provide continuity of information on progress in this reporting, I will be happy to take feedback from members on the information that they find most helpful and on any changes to the report that they would find useful. I remind members that we cannot expect to see significant change over six months in literacy and numeracy. As I have said before, real, discernible improvements in these sorts of outcomes take from 18 to 24 months.

A total of 178 indigenous students completed the ACT literacy and numeracy assessment program. This represents about two per cent of the student population in years 3, 5, 7 and 9. The numbers indicate the indigenous students' learning progression relative to the rest of the student population, but they are not statistically reliable. In each year group there are approximately 60 students, whereas around 200 students are necessary to be confident that differences in percentages are significant.

Mr Speaker, it is clear that this government is committed to making improved outcomes for indigenous students happen. It is a complex dilemma and it will take time to resolve. However, the progress report I have tabled shows that the full range of skills, expertise and knowledge available to government is being directed to the task.

A point I raised in the debate some months ago was that the rates of absenteeism were of concern. It is pleasing to see a drop of about 12 per cent in one year. That is something that will take a lot more effort and time, but I am pleased to see the efforts of the indigenous education unit, the education consultative committee and the parent body starting to work in that regard. I see that as crucial.

It is not necessarily included in the report and is not in my prepared speech, but we announced recently that we would be providing six scholarships, three a year, for the next two years for any Aboriginal and Torres Strait Islander students in year 12 who would like to do tertiary studies in areas relevant to the department. The sum of $500 a year for four years will be given to each successful applicant.

We are looking at the teaching area, social work, sport and recreation and several other areas where degrees would be very useful. That would assist those students in working for the department in years to come. That is a further initiative that I announced a couple of days ago. I do not think that it appears in the report. I mention it for the benefit of members.

As well, the first-hand knowledge of indigenous needs that the Aboriginal community itself knows best is incorporated, primarily through the establishment of the indigenous compact, into the overall effort to achieve improved educational outcomes for indigenous students.

I urge members to read the report in full. I would appreciate any feedback on any other things that they think might assist in the next six monthly report. I commend the first six monthly report on performance on indigenous education to the Assembly. I move:

That the Assembly takes note of the paper.

MR BERRY (4.06): This report is the first of what will be a series over a long period about the approach that this government and future governments take in relation to indigenous education. It emerged out a motion which I moved in this Assembly on 24 May and which was happily supported by the Assembly with one small change. The motion I moved called for quarterly reports and the eventual decision of the Assembly was for six monthly reports. I welcome that decision and the product of that decision, the first report.

Yesterday I had the pleasure of attending a celebration, in effect, of the awarding of a doctorate to Nelson Mandela. It is interesting to note that in the course of his speech on the subject he referred to education as being fundamental to the development of the disadvantaged society in Africa. There is no doubt that we have to focus our energies on the disadvantaged in this country. Whilst Mr Mandela drew attention to different demographics, there are many similarities.

This report has its origins, as I said, in a motion which was passed in the Assembly and the emergence of some quite disturbing reports in the media about perceptions, if I can use that term, of the way our education system was coping with the difficulties that we faced in indigenous education. In my view and, happily, in the Assembly's view, it was extremely important for the Assembly to have a progress reporting system to bring some confidence back into the community which uses our system, if possible.

Some elements of our community were unhappy and lacked confidence in the process. I do not want to go into the detail of that because that is probably a debate for another day as time passes. But I think that this reporting system will provide a vehicle for the building of confidence in our community in relation to indigenous education issues, provided that we produce the goods.

I have not had a chance to look a the report in detail, but the fact is that we are now treating this issue seriously and there will be regular reports. The government is now on notice and, in particular, the education bureaucracy is now on notice that the Assembly wants to keep its eye on this matter. I am confident that we as a community, both in the political sense and in the community sense, can join in and watch the development of better education outcomes for our indigenous people.

We have been faced in recent times with some serious issues on the drug front for our young indigenous people. We have also been faced with serious issues so far as law and order is concerned. I take the view, and I think I am joined by almost everybody in that view, that if we can find a better formula in our education system for indigenous people as well as other disadvantaged people the outcome so far as law and order, health and those sorts of things will be much better and, as a result, we will be building a stronger and more cohesive community in this country.

If this process is built upon and strengthened, it will contribute to reconciliation in this country in a way that we cannot possibly now measure at this point. It is something which, so far as I am concerned, is the future of the country. It is certainly the future for our relationships with the indigenous community, many of whom rightly feel left behind by society as a whole.

I once again welcome this first report. I will be studying closely the outcome of the report which has been tabled today. I imagine that the committee of which I am a member also will be considering the issue. I trust that the indigenous community and their leaders will also look closely at this report. I am sure that there will be some feedback in relation to how we might better serve the interests of our indigenous community in the future.

That is not to say that this first step will earn criticism. I think that it is just a first step along a long road to ensure that we build on these early efforts which have arisen from disquiet in the community over the issue. I conclude by welcoming this report and by thanking the minister for the details which have been included, even though I have not yet had a chance to decipher them and study them in full.

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

PRESENTATION OF PAPERS

Mr Moore presented the following papers:

Information Bulletins—
Calvary Public Hospital—Patient Activity Data—May, June and July 2000.
The Canberra Hospital—Patient Activity Data—May, June and July 2000.
Hepatitis C—Lookback program and financial assistance scheme report as at 30 June 2000.

CANBERRA CONNECT
Ministerial Statement

MS CARNELL (Chief Minister): I ask for leave to make a ministerial statement concerning Canberra Connect.

Leave granted.

MS CARNELL: I am pleased today to outline an initiative of my government that is set to enhance business dealings with our customers, that is, Canberra Connect. From 1 March 2001, Canberra Connect will be the primary customer service point for customers in the ACT regardless of whether they are paying their rates, licensing their dogs or wanting information and regardless of whether they are conducting this business in person at a shopfront, over the net or by phone.

The ACT is introducing Canberra Connect for one primary reason—to improve service delivery for customers through improved access and integrated systems. We want to improve the quality of services so that customers can find information and conduct their

business easily with government. We want to harness the opportunities provided by new technology that make it possible to integrate services and change the way customers can access those services.

Customers are already demanding broader access to government services out of core business hours and via the Internet. Canberra Connect will also provide a mechanism to change the way we do business from the paper-based conventions of old to new technology and electronic management.

One of the greatest strengths of this initiative is its capacity to deliver greater coordination of our services to our customers. Improving customer service has been an ongoing focus of this government. Over recent years we have put in place a number of initiatives to improve the way people can access information and do transactions. For example, we have four whole-of-government shopfronts across Canberra that offer a range of information and transaction services.

Our Austouch multimedia kiosks at 18 locations offer a range of government information and transactions both during business hours and after hours. People can also access a wide range of information about government services on the ACT government home page and through specialised web sites such as Business Gateway, and we already offer more than a dozen government transactions over the Internet.

Canberra Connect will build on these initiatives to deliver an integrated system capable of offering much wider services, streamlining processes and providing user-friendly systems. Importantly, Canberra Connect will offer a seamless approach to service delivery. Irrespective of whether customers use a shopfront, phone, kiosk or the Internet, they will experience the same look and feel and only need to contact one point.

This is possible in the ACT for two important reasons. The first is that our community has a high level of IT skills and good access to IT infrastructure which allows the government to deliver services in an IT environment. In 1999, 68 per cent of Canberra households had computer access, which was the highest for any state in Australia. Not only that, Canberra's home Internet access increased from 28 per cent to 35 per cent between 1998 and 1999, which was again the highest among the states and territories. Secondly, the modernisation of the ACT's information technology infrastructure is provided primarily through one platform.

Implementation of Canberra Connect has already begun. The first step towards instituting this change was my announcement on 14 July about establishing Canberra Connect, which will be operational on 1 March 2001. A project team from across ACT government departments has been drawn together to develop and implement Canberra Connect. This team is located within the policy group in my department.

Over the next six months this project team will work with each department to begin auditing and migrating services into Canberra Connect. These services will be integrated into a single service delivery system. Once the services have been audited, a phased approach will be adopted to migrate these services to ensure Canberra Connect begins business in March 2001.

Initially, less complex services will be migrated. These are already provided through the four ACT government shopfronts, via the Internet, over the phone and through kiosks. This initial phase will be followed by more complex services. In these cases it is likely that the business processes which underpin these services will need to be redesigned.

Parallel with this auditing of services, a selection process will be undertaken to identify an industry partner who will deliver Canberra Connect with government. The industry partner will be entering into a commercial relationship with government and sharing the risk and opportunities created by this initiative. The selection process for the industry partner has already begun, with an industry briefing on 15 August this year and the draft request for a proposal being released recently.

What can we expect Canberra Connect to deliver? Canberra Connect will integrate our physical shopfront facilities, call centres and electronic services into one common interface. It will continue to use a combination of service delivery tools, including the Internet, interactive voice response systems, integrated call centres and, of course, over-the-counter shopfront-style services.

Shopfronts will continue to remain an important way of delivering services to our community. These shopfronts will be fully integrated into the technology systems of Canberra Connect. However, the services that will be available at the shopfronts will expand. Of course, there will still be a need to keep specialised shopfronts which offer the more complex and professional services.

We are very much aware that there are groups in the community who do not have ready access to IT or who are not familiar with conducting business online. Canberra Connect will be addressing the need to improve the quality of services to all groups in the community, not just those with access to online services.

In order to achieve full and efficient integration of services, Canberra Connect will be working with agencies to redesign business processes in line with new technology opportunities. The agencies will continue to own these services and the business rules which guide their implementation. The difference is that Canberra Connect will integrate their delivery with other related services and across mediums to better serve our customers.

The industry partner with Canberra Connect is integral to this integrated system and service delivery approach. It will identify, design and source the technology standards and software systems to support the electronic delivery of services and transactions. The industry partner will also be able to identify international and national initiatives which could be built into Canberra Connect and keep the organisation in tune with the latest industry opportunities. There are significant opportunities for local industry in the development and management of Canberra Connect with the industry partner. It is anticipated that many of our local businesses will work with the partner to delivery various aspects of Canberra Connect.

As you will appreciate, there are many technical, organisational and business issues to resolve in delivering this type of integrated project. One of the key issues in developing Canberra Connect is the need to provide full privacy, security and integrity of all

personal information. Another will be supporting the staff affected by this change as they adapt to a new operating environment.

From 1 March next year staff will have the opportunity to be involved in the provision of a much more integrated service to the ACT community. There will be better processes for delivering services. A wider variety of services will be offered. Better, simpler technical support will be available. All of these have the potential to generate greater satisfaction for all customers and, importantly, staff. With this improved service we will be taking another significant step in making Canberra the clever, caring capital, which is what we all want for this great city.

I commend the Canberra Connect initiative to members of the Assembly as it really will improve the quality of life in Canberra and ensure that Canberra stays at the forefront of information technology and communication in this country.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Report on Motor Traffic (Amendment) Bill (No 3) 1998

MR HIRD (4.24): As chairman, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 56—Motor Traffic (Amendment) Bill (No 3) 1998, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

This report is the culmination of a review of whether or not the default urban speed limit should be changed from 60 kilometres an hour to 50 kilometres an hour. Despite the onerous workload that this committee continually experiences, it is with great pleasure and satisfaction that I note this report was completed in the shortest possible time. I thank my fellow committee members for the sterling effort in bringing this about.

When the bill was first introduced in August 1998, the Motor Traffic Act 1936 was still in existence. However, we are now subject to the regime of the Australian road rules. Earlier this year new legislation was introduced that referenced the Australian road rules and, as such, the procedure to alter these rules has become more than just a matter of amending our laws. The committee understands that there are moves by the Victorian government to do just this. They have applied to seek an exemption from the default urban speed limit of 60 kilometres an hour and have requested the Australian Transport Council to initiate a review to consider the adoption of an Australia-wide 50-kilometre an hour default speed for built-up areas. The committee considered this issue to be part of the broader range of traffic calming measures, and I refer to the committee's report on this matter earlier this year.

The committee has had the opportunity of viewing the use of traffic calming measures, including 50-kilometre an hour zones in the Brisbane city council area, at Hurstville in particular in Sydney and in a number of suburban areas, particularly the Waverley area, in Melbourne.

This is a controversial issue. The committee recognises the strong community support both for and against the introduction of such a speed limit. The views that were expressed tended to be on the single factor of lower speed limits. However, this matter must be considered in the broader context of traffic calming measures, and this is the context in which the committee has made its recommendations.

While the committee commends the proposed national review of the issue, it is aware that the ACT need not mindlessly follow any recommendation. The ACT is in a unique position. Canberra is a city that was designed for the motor vehicle and, as such, it has a carefully planned hierarchy of road systems. It is for this reason that we should carefully consider the benefits by having the suggested trial.

The trial should be for a period of sufficient length to give a true indication of the effects of the lower speed limit. The committee noted from its Queensland visit that 18 months was not quite long enough. Queanbeyan conducted a trial over a period of two years before confirming the introduction of the new limit. It is for these reasons that we recommend that the period of a trial should be two years. The committee considered that the trial should apply only to local and feeder streets and not to sub-arterial, arterial and parkway roads. The committee wants to make it perfectly clear that not every road in the ACT will have a 50-kilometre per hour speed limit.

The committee further understands that, due to community support both for and against, contentious streets will have to be considered on their individual merits. For this reason the committee recommends that those contentious streets be considered by the committee with input from local elected members of this parliament, as is the case in other jurisdictions.

Further, the committee recommends that extensive public awareness measures be undertaken both before and during the trial. The committee recommends such measures as a letterbox drop of brochures to all ACT households and the printing of information on the back of registration labels.

The committee noted that a number of accidents that took place on local and feeder streets involved children, elderly persons and cyclists and considered that a trial of 50 kilometres an hour for local and feeder streets would be meritorious if it reduced the number of accidents. We believe that a trial should go ahead and that it should be rigorously assessed. Only after all of this has taken place should it be adopted permanently.

I would like to take the opportunity to thank all those people who gave evidence by way of written submission or appeared at our public hearings. I also thank my fellow committee members Mr Corbell and Mr Rugendyke, the officers from the department who assisted the committee in its deliberations and people from the various jurisdictions whom we visited during our inquiries.

Finally, I want to pay tribute to the inquiry secretary, Mr Mat Gable, who was seconded from the Department of Urban Services. He proved to be a very capable and able officer who brought a fresh mind and an active intellect to the inquiry. His contribution was invaluable. On behalf of my colleagues, I thank the minister, Mr Smyth, for agreeing to make Mat available. I also thank the chief executive of Urban Services, Mr Alan Thompson, for making available an officer with such expertise. I commend the report to the house.

MR CORBELL (4.31): I am pleased to join my colleague Mr Hird in commending this unanimous report to the Assembly. This report is the outcome of a fairly intense period of examination by the Planning and Urban Services Committee and I think the balance that has been struck in the report is the right one.

It is very clear to me from the examinations that the committee undertook that there are considerable benefits open to the ACT if we adopt a 50-kilometre an hour default speed limit. The ACT is in a good position to learn from the experience of other states that have led the way in introducing a 50-kilometre an hour urban speed limit. I think perhaps some of those lessons are worth elaborating upon.

The first is the lesson from New South Wales. Because NSW chose not to make 50 kilometres an hour the default limit, they had to signpost ever single street to which the 50-kilometre an hour limit applied. This obviously is an extremely costly option. Also, it is aesthetically quite distracting to have a 50-kilometre an hour speed sign at the entrance to every single street to which that speed limit applies.

This is not what the committee has recommended in its report. Indeed, what the committee has recommended is the approach taken by all of south-east Queensland, including Brisbane, and the other metropolitan areas in Queensland. They have adopted a default 50-kilometre an hour speed limit. This means that the only signs you need to implement this limit are the signs that indicate where the speed limit is not 50. So you only need signs to indicate that the speed limits are 40, 60, 80, 90, 100 or 110 kilometres an hour because all other streets have a 50-kilometre an hour default limit. That obviously means that very few signs will need to go up in the ACT if the government hopefully adopts the committee's recommendation. The only new signs that will be needed are those that indicate to people entering the territory that a 50-kilometre an hour default limit applies. We are talking about around half a dozen signs on all the entrance roads into the ACT. So there will not be a substantial cost to government.

There will be a cost to government in the public education program, which is referred to in recommendation No 5. Public education is absolutely crucial to make this sort of initiative work. Indeed, this government has already conducted similar public education programs. The education program that was put in place for the introduction of speed cameras in the ACT involved the comprehensive delivery of information to householders as well as electronic and print advertising. The committee recommends that we need to have a similar mechanism in respect of the introduction of a 50-kilometre an hour speed limit in the ACT. This will come at a cost but I would have to say that I and my colleagues on the committee are convinced that that cost is worth while. It is worth while because the number of accidents that occur on local and feeder streets is not insignificant—and I think that point needs to be remembered. Also, the number of injuries that occur is not insignificant.

All of the scientific evidence demonstrates that a reduction of 10 kilometres an hour in the average speed of a vehicle on local and feeder streets will result in a significant number of accidents being avoided completely, a significant reduction in the severity of accidents and a marked increase in the capacity of pedestrians to survive such accidents. So this expenditure is worthwhile in that it will help save lives and reduce damage to people and property.

While this is a very good report, it is only as good as the committee secretariat. I would like to place on record my thanks to the two officers from the Assembly's secretariat who assisted the committee during the inquiry. Their assistance and willingness to dig out the issues and find the witnesses that the committee felt it needed to hear to get a good understanding of the issues is much appreciated. I hope that the government will adopt a positive response to what is a unanimous report on the introduction of a default 50-kilometre an hour speed limit for the ACT.

MS TUCKER (4.37): I would like to commend the committee on this report. I think it looks like a very good result. I was just talking to Mr Rugendyke and he said that his position had changed as a result of the committee process. I guess this is an example of how committees can work so well. I can remember an example in the last Assembly where Michael Moore started off thinking that night sky pollution was a bit of a strange subject and, after listening to the evidence, ended up feeling quite comfortable about taking the issue seriously. This is what has happened with this committee as well, so it is a good process. When a committee works well, people can listen, be informed on an issue and then take a position.

It is great that the committee brought down a unanimous report. I think the trial basis is a reasonable compromise. Although I think we probably could have just done it, I am quite comfortable with a two-year trial. I look forward to seeing the speed limit implemented. I hope that there will be a positive response from the government. I know that the government is in a different position. But in light of this unanimous report I would certainly hope that Mr Smyth and his colleagues seriously consider accepting these recommendations.

Question resolved in the affirmative.

VOCATIONAL EDUCATION AND TRAINING AMENDMENT BILL 2000

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

> That this bill be agreed to in principle.

MR BERRY (4.39): Labor will be supporting the bill in principle. The amendments proposed in the bill will give the minister the option of ruling out bogus operators in the territory. They also will give the minister certain powers in relation to universities in other countries. Essentially, the amendments will assist the minister to ensure that higher education courses are not falsely represented. Also, they will put in place a penalty regime in respect of any infringements.

At this point I foreshadow that I will be moving an amendment, which I have circulated, in relation to the definition of "university". I will refer to this matter when we come to the detail stage—and by the look of things, that will take place shortly. This bill proposes a welcome change and, as I said, we will be supporting it.

MS TUCKER (4.40): The Greens will also be supporting this bill. The increased emphasis on the use of private providers in the field of training and higher education has put substantial pressure on government in regard to quality assurance. The purpose of this bill is to prevent the advertising of non-accredited higher education courses. Of course, misleading advertising in a freshly privatised and expanding market will often be a problem. Indeed, one could argue that it is in the nature of a privatised and deregulated or partially regulated education market that advertising and promotion will often be of greater importance to the providers than the quality of the product they promote.

The ACT Greens are pleased to see the government working at a national level in taking this action. I am very concerned about the impact of private providers on the public sector, particularly bearing in mind the approach of the federal government and this government to public providers. That is a separate issue to a degree. This, in a way, is another issue because it is about trying to ensure quality in the private sector.

There are, however, still some real issues about what happens to our society when private providers take over to such an extent that the viability of the public providers is diminished. Obviously, what is at the heart of that question is whether or not, as a society, we have high-quality, free educational opportunities for everybody in the ACT, or in Australia for that matter.

I think we have a serious issue in Australia at the moment in respect of federal and local policy on private versus public providers. I do not think there is a real commitment from either government to equity of access to education. But at least this legislation is trying to ensure as much as possible that the private providers provide a good service.

A lot of government commitment and resources is required to ensure that quality control mechanisms work. I am not quite satisfied either that that is happening properly. But at least this legislation acknowledges the need for that.

MR RUGENDYKE (4.43): Mr Speaker, I wish to speak briefly in this debate. I also support this sensible amendment to the act. It is appropriate that bona fide universities are properly accredited in the ACT by the appropriate authority. I note from my research that it is important that we close the loophole that has been referred to. We have been told that Greenwich University is an unauthorised institution that has apparently been known to confer degrees and doctorates for a fee around the world. We certainly do not want that sort of thing devaluing our fine universities and higher education facilities here in the ACT. I support the bill.

MR STEFANIAK (Minister for Education) (4.44), in reply: I will speak to Mr Berry's amendment when we come to the detail stage. I also intend to move an amendment on the same point.

I thank the members for their comments on the bill. What we have before us is a straightforward mechanism which will ensure that all higher education courses provided by non-university providers in the territory must be accredited by the ACT Accreditation and Registration Council. It closes a loophole and will bring us into line with the other eastern states. Also, the addition of two members to the Accreditation and Registration Council will give the council greater expertise and strengthen its role in higher education.

I thank members for indicating that they will vote in favour of the bill. There is considerable urgency in having the bill passed as some unaccredited providers were starting to sniff around and offer some courses. I am pleased that this bill will enable that not to happen and that it will protect the good name of education and training in the ACT. I thank members for their comments at the in-principle stage.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR BERRY (4.46): I move:

> Clause 4, page 2, line 15, paragraph (c), proposed definition of ***university***, paragraph (b), after "opinion,", insert "formed after consultation with the council,".

This amendment goes to the issue of forming a definition for the purposes of the act. So far the bill has been supported in principle. Clause 4 of the bill seeks to amend section 4 of the act by inserting in subsection (1) the following definition:

> "***university*** means a higher education institution that is—
> (a) established or recognised as a university under a law of the Commonwealth or a State; or—

that is satisfactory—

> (b) established in a foreign country and recognised by the authority in the foreign country that, in the Minister's opinion, is a competent authority for the purpose; or—

there is a point of contention in that paragraph—

> (c) recognised by the regulations as a university.".

This is quite acceptable. The amendment that I propose seeks to change paragraph (c) of clause 4 by inserting after the word "opinion" the words "formed after consultation with the council". Paragraph (b) of the definition of "university" would then read:

> Established in a foreign country and recognised by the authority in the foreign country that, in the Minister's opinion, formed after consultation with the council, is the competent authority for the purpose; or

The council is the Accreditation and Registration Council, which is formed under the Vocational Education and Training Act, and its members are appointed by the minister, I assume, under the act.

I was just a wee bit nervous that the minister could form an opinion on his own. I know that the minister has an amendment which goes to the same issue where the minister would form an opinion after consulting relevant bodies, or words to that effect. I want the legislation to be a little more specific than that.

The Accreditation and Registration Council is a competent body with its terms of reference set out very clearly in the act. The legislation would have to be changed in this place for this body to cease to exist. The council, which is constituted under the legislation, would be an appropriate consultation point for the minister before forming a view about what is a competent authority in a foreign country. My amendment merely requires the minister to consult with a body competent to deal with these issues before making a decision in relation to the matter.

Amendment negatived.

MR STEFANIAK (Minister for Education) (4.49): I move:

> Clause 4, page 2, line 15, paragraph (c), proposed definition of ***university***, paragraph (b), after "opinion,", insert "based on reasonable grounds,".

This amendment goes to the same point as that made by Mr Berry. However, unlike Mr Berry's amendment, which sought to insert the words "formed after consultation with the council", my amendment seeks to insert the words "based on reasonable grounds". So paragraph (b) would read:

> established in a foreign country and recognised by the authority in the foreign country that, in the Minister's opinion, based on reasonable grounds, is the competent authority for the purpose; or

Mr Berry and I have discussed this matter. Initially, might I say that this particular section as it stands without amendment has been lifted from the Queensland act. Basically, the bill seeks to include in the act a definition of "university" so that a non-university provider can be quickly and clearly identified. It is a concise and direct definition based on the premise that in Australia and in most overseas countries universities are established by statute or must be recognised by a relevant government authority. The wording of the amendment gives the minister of the day some degree of discretion in recognising overseas authorities with responsibility to accredit or recognise a university.

I have moved my amendment as a result of some concerns Mr Berry has about the minister acting completely off his or her own bat. Quite clearly, I think any responsible minister would take advice and would have to act on reasonable grounds whether or not

that is a specific requirement in the act. Ministerial discretions or decisions of this or any other nature are subject to the scrutiny of the Assembly and are part of normal ministerial accountability arrangements.

However, because of the concerns raised by Mr Berry, I am happy to move an amendment to ensure that the minister does in fact act on reasonable grounds and does take advice. I think my amendment goes further than Mr Berry's amendment in that it is more incumbent on a minister to ensure that he or she takes advice from relevant bodies so that the minister can act on reasonable grounds.

The problem with Mr Berry's amendment is that it merely refers to the Accreditation and Registration Council. The Accreditation and Registration Council has been established under the act. It has a number of functions, such as advising the minister on matters relating to the accreditation of vocational education and training courses and the registration of vocational education and training providers; accrediting vocational education in schools and the vocational education and training sector; and accrediting and registering vocational educational training providers. Whilst it does have some dealings with higher education apart from vocational education and training, fundamentally it is there to deal with vocational education and training. This bill also proposes that up to two additional members with expertise in higher education be appointed to the council.

From what I can gather, there are two bodies which any responsible minister would have to consult, or indeed the minister's department would consult prior to advising him or her, were paragraph (b) of the definition of "university" in section 4(1) ever to come into play in relation to a foreign country. Certainly one is the body that Mr Berry mentioned—the council. The other at this stage is the Australian Vice Chancellors Committee. In fact, I would suggest the council would probably have to go to the Australian Vice Chancellors Committee to get information and advice because that probably is a body which would know more about the veracity of a university established in a foreign country and recognised by the authority in the foreign country. That body would know whether or not it is a competent authority.

Off the top of my head, I am unaware whether there are any other bodies. But if there are, I would suggest it would be incumbent on the relevant minister, through his or her department, to get advice in relation to whether the foreign body was a competent authority or not.

So I suggest that the words "based on reasonable grounds" would make it more incumbent on whoever was the minister to ensure that all the relevant detail had been sought so that the grounds could be reasonable for the minister to act. I think Mr Berry's amendment—and I see exactly what he is doing—is somewhat restrictive because it deals with only one body.

I would indicate in terms of the debate on this bill that quite clearly the intention of the government is that if there was a question in relation to what a university meant to a foreign country and if there was some question as to what the competent authority was, it would be incumbent on the minister to ensure that he or she and their department received advice from both the Accreditation and Registration Council and also, as it is presently constituted, the Vice Chancellors Committee. Indeed, if there were some other

relevant body—I cannot recall and I am unaware of any other body—then advice would be sought from that body as well.

I have put those words into the record in case this ever becomes an issue and anyone has to decipher what is actually meant. So I commend my amendment, which I think certainly achieves what Mr Berry sought to do in his amendment. As I indicated, I am not satisfied with the wording of Mr Berry's amendment. Quite clearly, my amendment does the job and extends what Mr Berry wants to do. I believe that my amendment does the job better and in a much fuller way. That is why I have put on the record the points that I wanted to make.

MR RUGENDYKE (4.55): I have listened to both Mr Berry and Mr Stefaniak and I tend to agree that the minister's amendment opens up consultation rather than restricting it to the council. I believe that a minister would be wise to consult widely to form a view based on reasonable grounds, and for that reason I support Mr Stefaniak's amendment over Mr Berry's.

Amendment agreed to.

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

Bill, as amended, agreed to.

CONSIDERATION OF PRIVATE MEMBERS BUSINESS
Suspension of Standing and Temporary Orders

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

> That so much of the standing and temporary orders be suspended as would prevent notice No 1, private Members' business, relating to sister city relationships with Chinese cities being called on immediately after the resolution of the question relating to the conclusion of consideration of notice No 5, Executive business, relating to the sister city relationship with Beijing.

BEIJING—SISTER CITY RELATIONSHIP

[COGNATE MOTION:

CHINESE CITIES—SISTER CITY RELATIONSHIPS]

MR DEPUTY SPEAKER: Is it the wish of the Assembly to debate this motion cognately with notice No 1, private members business, relating to sister city relationships with Chinese cities? There being no objection, that course will be followed. I remind members that in addressing their remarks to this notice they can also address their remarks to notice No 1, private members business.

MS CARNELL (Chief Minister) (4.58): I move:

> That this Assembly agree to the ACT Government signing a sister city proclamation with the Beijing Municipal People's Government for Canberra and Beijing to enter into a sister city relationship.

Mr Deputy Speaker, I think it is appropriate to set the scene a little by indicating what has happened up until now. Despite being approached by numerous capital and major cities round the world, the current ACT government has not entered into any official sister city relationships since the one with Nara in Japan under the previous Labor government. The ACT government has purposely adopted a cautious approach to such relationships, instead concentrating on enhancing and adding value to the existing official sister city relationship that Canberra has shared with Nara since 1993.

In the past three years the following cities have approached Canberra with regard to developing sister city relationships: Port Moresby in Papua New Guinea; Zakapone in Poland; Samara in Russia; Atlanta in the USA; Ottowa in Canada; Canakkle in Turkey; Pretoria in South Africa; and, of course, Beijing in China. The ACT government's response to all of these proposals has been that before entering into a sister city relationship there needs to be strong community involvement from a range of sectors and in particular business. To date, only Beijing has actively pursued those requirements and has really been quite dedicated to meeting our criteria.

The purpose of the ACT government's cautious approach to sister city relationships is to ascertain whether benefits to the ACT exist and whether there is real community support. In the case of Beijing, the ACT government has satisfied itself that such benefits do exist and that the objectives of both cities with regard to the proposed relationship are understood by all involved.

Both sides of politics at the state and federal level have recognised the importance of improving and formalising our relationship with China. Every other Australian state, territory and capital city has either a sister city or economic cooperation agreements with Chinese provinces and cities. Indeed, at the recent ALP national conference in Hobart, the Labor Party agreed to have in its platform:

> Labor strongly supports engaging and integrating China with the emerging Asia Pacific security community. The rise of China is the single biggest geopolitical force in the ongoing transformation of our region. Australia's interests are best served by China's positive involvement in the international political and economic community. It is imperative that Australia seek to work with China, bilaterally and regionally, and in global forums.

Mr Deputy Speaker, that was an extract from chapter 15 of the ALP's platform, entitled "Securing Australia's Place in the World".

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

MS CARNELL: In 1972, Gough Whitlam entered into the first relationship with China and it is interesting to read the joint communique that was signed. I think that it is important to quote just a little bit of it. It reads:

> The two governments agree to develop diplomatic relations, friendship and cooperation between the two countries on the basis of the principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference into each other's internal affairs, equality and mutual benefit, and peaceful coexistence.

Mr Deputy Speaker, it goes on from there, but I think that we would find that many people would still agree that that is as the relationship should be with China and other countries.

The ACT government's commitment over the past four years to marketing and promoting itself in China as a tourism, business, education and investment destination has already started to pay off. According to the BTR international visitors survey, the number of international visitors to the ACT from China increased from 2,590 in 1989 to 15,990 in 1999, with a high of 18,443 in 1998.

In the education sector, ACT schools increased their intake of full-fee-paying Chinese students from five in 1998 to 180 currently and this figure is expected to increase to 240 in the next 12 months. Those figures were provided by the international education unit of ACT education. Furthermore, the University of Canberra is exporting its courses to China through joint venture programs with two of the country's top universities. The Asia business management centre of the ANU currently carries out management courses for Ericsson in Beijing and in 1999-2000 generated income of $1.5 million.

The ACT environmental sector is also beginning to establish productive business links, with local firm Kiah Environmental securing its first China contract for environmental landscaping last year. The future looks even brighter for ACT firms to do business with Beijing and greater China. The establishment of the Canberra Beijing Cooperative Business Council to manage the relationship and to identify business opportunities has provided the ideal forum for frank and direct discussion with regard to collaborative projects.

The council, consisting of top-level private and public sector representatives from both sides, held its inaugural meeting in Canberra in March of this year. As a result of the meeting, both sides agreed to develop exchange programs and cooperative projects in urban waste treatment, air pollution control and grey water recycling. Beijing agreed to send groups of officials and managers to Canberra for short-term training in environmental management. Beijing also expressed interest in the ACT's no waste by 2010 strategy, with the possibility of a Beijing district modelling the strategy and the ACT providing technical support.

Further cooperative agreements were reached in the areas of tourism, specifically reciprocal marketing arrangements, and education. By far the most exciting of the current Canberra-Beijing discussions are centred upon the Olympics and the potential for the ACT to assist Beijing in the development of an environmental strategy for its 2008 Olympic Games bid.

The ACT government has been careful to consult with the Department of Foreign Affairs and Trade at all stages in the development of a Canberra-Beijing relationship and DFAT is supportive of the ACT government's China policies and initiatives. DFAT shares the

ACT government's view that isolating China will not contribute to improving the country's human rights situation and that a non-confrontationist approach in conjunction with well directed technical assistance is most likely to achieve lasting results.

Opportunities exist for the ACT to assist the federal government in the delivery of technical assistance programs. In fact, in 1997 officials of the Chinese Ministry of Foreign Affairs attended a conference on international human rights law at the Australian National University.

Opportunities for direct ACT assistance to Beijing exist in the area of oral health care. ACT Community Care's dental health program has some surplus and outdated equipment. While this equipment is no longer suitable for use here, it is in good condition and perfectly serviceable and would be of great value to Beijing's community dental services, particularly in the more deprived areas of the city.

There is much greater potential for technology transfers in relation to the fluoridation of public water supplies. Although sometimes controversial, water fluoridation is surely one of the most successful and cost-effective public health measures ever implemented. It has been instrumental in reducing dental disease, especially among children in Europe, North America and Australia.

ACTEW possesses the relevant expertise and recently a Beijing delegation to Canberra expressed interest in how the ACT added fluoride to its supply of drinking water. The operation is relatively low-tech and ideal for a country like China where one of the greatest resources is manpower. With some technical help from ACTEW, it would be comparatively simple and inexpensive for Beijing to fluoridate its water supplies and reap the benefits in terms of improved oral health.

Mr Deputy Speaker, it has been said on a number of occasions that there is no community support for this sister city approach and that somehow the government has not appropriately consulted. It is interesting that, in response to Ms Tucker's proposed motion against Canberra entering into a sister city relationship with Beijing or any other city in China due to China's human rights record, the ACT government has received letters in support of a sister city relationship from the ACT Multicultural Council, the ACT Chinese Australian Association, the Australia Canberra Beijing Association, the Federation of Chinese Community Canberra and the Dickson Business Group. I present the following papers:

> China—Sister City relationships—Facsimilie copies of letters from—
> President, ACT Chinese Australian Association Inc to Ms Kate Carnell, Chief Minister, dated 13 July 2000.
> Acting President, Federation of Chinese Community Canberra Inc and President, Australia Canberra Beijing Association Ltd to Ms Kate Carnell MLA, Chief Minister, dated 11 July 2000.
> Dickson Business Group to Mrs Kate Carnell, Chief Minister, dated 7 July 2000.
> Secretary of ACT Multicultural Council Inc to Chief Minister, dated 11 July 2000.

Mr Deputy Speaker, I have also received, as I am sure have many other members, letters from a wide range of people in the community supporting this approach. I would like to quote some of the letters. The Federation of Chinese Community Canberra wrote:

> While acknowledging that there is a serious problem with China's human rights record and the ACT Legislative Assembly's legitimate concern with respect to this, we, the representatives of the Chinese Community of Canberra believe that the most effective response is through active engagement with China and its cities. Greater accountability, openness, acceptance of the rule of law and respect for human rights can best be achieved by fostering friendly ties through sister city programs rather than through punitive actions or isolation.

The president of the ACT Chinese Australian Association, Ms Alice Chu, wrote:

> The establishment of a sister city relationship between Beijing and the ACT is, in my opinion, a breakthrough to a closer relationship and an important step in stamping the ACT on the world map. It would promote and strengthen trade and business, cultural and art exchange activities, and a reciprocal care and concern between the people of these two countries. The motion to be put forward by Ms Tucker is counterproductive to the forward looking and positive expectation of the ACT citizens and a step backward to the push for multiculturalism in Australia.

Mr Deputy Speaker, I have a whole range of letters which I have tabled for the information of members. I think that these letters show quite categorically that the Chinese community and the multicultural community in the ACT do support the approach that the ACT government has taken. The relationship has been growing over a number of years and a large number of groups have come from China, including Beijing, to the ACT to look at various aspects of our community in the business area, in government areas and in the arts and culture area. I am confident that that relationship is building a level of understanding that simply did not exist in the past.

In conclusion, Mr Deputy Speaker, I reiterate that the ACT government has taken a very cautious approach with regard to entering into a sister city relationship with China. We have not just thought that this was a great idea. (*Extension of time granted.)* We believe very strongly that having a cooperative approach between the ACT government and the Beijing government will improve understanding and friendship and has a very great potential to lead to better human rights outcomes for the people of China.

I can guarantee that having no cooperation, no communication and no friendship between the two cities would achieve nothing at all. Closer relationships with Beijing and greater China have already resulted in significant benefits to the ACT and even greater future benefits will result if this sister city relationship is formed.

I am sure that Mr Stefaniak will make some comments about the education program, but one way in which obviously we can improve the human rights situation in China is by having students studying in the ACT and seeing the real benefits of the implementation of a democratic society with rule of law, with quality of life and with the environmental approaches that we take here.

Equally, we can learn a lot from the Chinese community as well. They have a tremendous understanding of history, of family, of traditional medicine and of a whole range of other issues, and that is basically what a sister city relationship is about. It is about mutual understanding, about learning both ways and about benefits both ways. Sister city relationships are about the community.

Government is an important part, but the bottom line here is friendship and relationships at school level, community level, organisation level and business level; in other words, relationships that can lead and will lead to a greater regard for human rights, to more openness, to better long-term discussions and engagements and to serious benefits for both cities.

MR KAINE (5.17): I will be quite brief. I do not support this initiative on the part of the government. I do not believe that we can stand aside and ignore the international reputation that the People's Republic of China has in the area of human relations. We cannot just put all that aside and say that we will go into this sister city relationship.

The Chief Minister has outlined all of the good things that have been happening. They have happened without a sister city relationship with Beijing. I have no doubt that they will continue to do so, because China sees them as valuable in themselves. It is reasonable to do all of those things as part of a program of influencing China through those initiatives—technological, educational, art and cultural—to bring China to a different way of thinking about human rights.

But when you go a step further and set up a city sister relationship, I think you are going one stage too far at this point in the developing relationship between China and the rest of the world. We are not isolated from the rest of the world. We have to be concerned about those major issues.

The Chief Minister read out a lot of testimonials about how great this relationship is going to be. I note that there were not too many testimonials from local organisations. They were almost all from associations with Chinese affiliations.

Ms Carnell: They were all local.

MR KAINE: If you want to get into a private debate, we will go outside and do it. I did not hear, for example, any testimonial from an international human rights organisation. Where was the testimonial from Amnesty International? There was not one, nor is there likely to be in the foreseeable future.

Given the international climate, I cannot conceive how the Chief Minister could have taken this proposal this far without testing public opinion. I believe that if she took even the first step towards testing public opinion she would get a resounding no.

I said that I was not going to take too much time. I do not think I need to. I just want to make my position quite clear. I do not think that one has to go any further to examine and consider the sort of relationship we should enter into with China than to look at China's record in Tibet. Tibet is a country that was invaded in 1949. The whole national system has been suppressed and destroyed. The system is run by China, for China.

China is exploiting the country, removing the natural resources. As I said, China has suppressed all of the national institutions of what was formerly an independent nation. China has virtually destroyed Tibet's religious practices. It has imprisoned and tortured thousands of people in that country alone. That is all on the public record. I am sure that the Chief Minister is as aware of it as I am. Yet she says that we are justified in going into this close, intimate, one-to-one relationship.

It would be different, perhaps, if it were not with the national capital of the country, but the Chinese see a great deal of political significance in establishing this sort of relationship with Canberra, the national capital of Australia. It is not just a one-to-one friendship thing so far as the Chinese government is concerned. There are far deeper implications than that. Yet our Chief Minister is so naive as to think that we can go into this relationship and get some benefit from it.

I repeat: we have been getting the benefits for quite a long time now without this sort of relationship. I am sure that they will continue, because it is in China's interests that they should. This is just one step too far. I do not support this proposal.

MS TUCKER (5.21): In my view, this debate is about ethics. It appears that the ACT government prefers to absent itself from any ethical issues with a national or international dimension. The debate earlier this year on mandatory sentencing was a case in point. Members of the ACT government were most reluctant to express any view on the ethics or justice of the mandatory sentencing regimes in the Northern Territory and Western Australia and chose instead to argue the rights of state and territory governments.

Similarly, when it came right down to neighbouring forests and the health of the bioregion of which Canberra is a critical part, this ACT government was shrill in its contention that it was not our place to seek to influence New South Wales decisions. But this debate is closer to home. It is about the creation of a sister city relationship with Beijing, so it reflects both on our principles and on those of our sister-to-be. The ethics in this instance are inescapable.

I raised the issue of the deteriorating human rights record in China in a letter to the Chief Minister in June of this year. In her reply to me in July, the Chief Minister wrote:

> ...while the issue of human rights, not only in China but also in every nation, is of concern to the ACT Government, it is one that must be dealt with at a Commonwealth level.

But a sister city relationship with the capital of China will not be merely a link at community level, a series of connections from school to school or from business to business. These links exist and will continue to exist and to develop, sister city or not. I commend Mr Kaine's comment that it will be construed by the international community as a relationship between two capital cities. It is quite clear that it will be seen as that.

A sister city relationship is, in fact, a form of congratulatory partnership. It is one of celebration and of mutual admiration. It is a vehicle through which this government aligns itself to the governing body of Beijing for mutual recognition, mutual benefit and mutual esteem. In forming such a close partnership, clearly we will be lending our support to the practices of that government. That is inescapable.

It is simply not possible in taking this action to surrender all responsibility for human rights to the Commonwealth. If we choose to lend credibility, esteem, recognition and favour to our sister government, then the human rights record of our sister must and will,

inevitably, reflect on us. Is that the message we want to send? Is that how we see ourselves?

The Chief Minister made the point in a letter to me in August that the Commonwealth government shares "the ACT government's view that isolating China will not contribute to improving the country's human rights situation and that such issues should be handled by the Commonwealth government at the appropriate Australia-China forums".

The Chief Minister has in one sentence misrepresented the position I have consistently put regarding our relations with people in China, pointed out the weakness in the Commonwealth government's arguments for influencing the human rights situation in China, and completely missed the significance of a sister city relationship.

I have never advocated the diminishment of friendly relations between communities and businesses in Canberra and China. I am a passionate believer in the power of community organisations to communicate and work together internationally. It is through such contact that we can foster cultural sensitivity, understanding and, dare I say, empowerment, and lend support to each other at many different levels.

That empowerment will be critical to reforming the absolutely unacceptable regime that is now governing China. It will have to come from the people. For that reason, I hope that we will not have to listen to Bill Stefaniak speak at length about the educational exchange. I do not dispute that it is valuable. We are talking about a sister city relationship, so it would be useful if he directed his comments to that.

On the issue of community relationship, the Greens are now an international force in politics and social change, with members in parliaments from Mongolia to Mexico. The global Greens conference next Easter will bring delegates from across the world to Canberra, where the focus will be very much on international cooperation and exchange, integrity, responsibility and human rights.

It is either misguided or deceptive to suggest that I am looking to isolate China. The issue in this instance, however, is whether we should afford Beijing, and so China, the endorsement of inviting its government into our family. The deteriorating human rights situation in China is the principal reason that I believe it would be a mistake to pursue a sister city relationship with China at this time.

It is simply wrong for the Chief Minister to assert that it is at the Commonwealth level, through the Australia-China bilateral dialogue on human rights, that the situation can be best addressed. In 1997, Australia stopped co-sponsoring resolutions before the United Nations Commission on Human Rights in return for China entering a bilateral dialogue with the Commonwealth government.

This dialogue remains secret. It is closed to the public and the media. We cannot say what goes on within it. We do know, however, that over the past three years human rights in China have deteriorated significantly. Just last month, Amnesty International and the Australia Tibet Council reiterated their concern that this form of "positive engagement" was achieving nothing. They presented overwhelming evidence of the deteriorating human rights situation for the people of China and Tibet.

Amnesty International has expressed grave concerns about widespread persecution in China, including crackdowns on the Chinese Democratic Party, the non-official Catholic Church, the Falun Gong movement and, I heard yesterday on the news, the Protestant Church, and in Tibet with the ongoing patriotic re-education campaign and the campaign to encourage atheism, considered to be the most brutal repression since the Cultural Revolution.

I understand that the Chief Minister was one of the first to subscribe to the Legislative Assembly branch of Amnesty International, due to have its inaugural meeting soon. The president of the ACT branch of Amnesty International has written the following letter to the Chief Minister, forwarding copies of that letter to me and to others in the Assembly:

> Dear Chief Minister
>
> I am writing to you on behalf of Amnesty International Australia in reference to the proposal that Beijing become a sister city to Canberra. I understand that the proposal is to come before the Legislative Assembly shortly. I write to you in the light of recent suggestions that the human rights situation in China is improving.
>
> I have to advise you that a decision based upon any such views would be proceeding from a grave error of fact. The Amnesty Report 2000 summarises the human rights situation in China as follows:
>
> 1999 saw the most serious and wide-ranging crackdown on peaceful dissent in China for a decade...Those targeted in the crackdown included political dissidents, anti corruption campaigners, labour rights activists, human rights defenders and members of unofficial, religious or spiritual groups. Thousands of people were arbitrarily detained for peacefully exercising their rights to freedom of expression, association or religion...In the autonomous regions of Tibet and Xinjiang those suspected of nationalist activities and sympathies continued to be the targets of particularly harsh repression.
>
> There has been no change in substance to this situation in 2000. I have set out a more detailed description of the situation in an attachment. You may also be assisted by reference to the address of the latest Amnesty International Report—

a web address is given—

> The attachment deals with the matters under the following headings:
>
> Repression of political dissent
> Persecution of religious belief
> Tibet and Xinjiang
> General
>
> Responsibility for selecting a sister city and any consequent implications for Canberra's reputation belongs with the ACT government and the Legislative Assembly. It cannot be shifted elsewhere. I am therefore addressing this letter and the attached information to you in the hope it will assist.
>
> I am sending copies to the Leader of the Opposition and independent members of the Assembly.

I will not read the whole of the attachment, but I will table it and read the last section:

> Torture is widespread in China but it is forbidden by law although evidence obtained by it is admissible. Nevertheless, at least in the ordinary criminal field there has been some attempt to curb torture. China allowed the United Nations Committee against Torture to visit China this year. Amnesty has urged the Chinese government to give effect to the Committee's recommendations. Amnesty is particularly concerned with early detention. Many of the deaths from torture reported to it occur in the first interrogation. Another improvement is the Chinese decision not to implement the death penalty on juveniles under 18.

(Extension of time granted.) I continue:

> (But executions continue apace. The reported number of executions in the 1990s is 1800. Amnesty International believes this figure understates the true position.)
>
> However, as stated, there has been no discernible improvement in the field of political, religious or other dissent from the Chinese Communist Party. Amnesty International would firmly reject any suggestion that the signing by China of the International Covenant on Civil and Political Rights in October 1998, when its application to the World Trade Organisation was still pending, represents an improvement. The provisions of the Covenant have been flagrantly disregarded in the period since.

I seek leave to table the document.

Leave granted.

MS TUCKER: I table the following paper:

> Beijing—Proposed sister city relationship—Copy of letter from President, ACT Branch, **amnesty international** australia to ACT Chief Minister, dated 17 August 2000, together with attachment.

I would also like to quote from another document. Bob Brown, my colleague in the Senate, went to Tibet—not as an official visitor and not on a propaganda bus—and produced a comprehensive report on the subject. Obviously, I cannot deal with all of the issues raised in it, but I will quote a couple of sections. The document states that the International Commission of Jurists had reported:

> Torture and ill treatment in detention is widespread in Tibet. The use of electric cattle-prods on political detainees appears to be general practice. Torture and other forms of ill treatment occur in police stations upon arrest, during transport to detention facilities, in detention centres and in prisons. The documented methods of torture against Tibetans include beatings with chains, sticks with protruding nails, and iron bars, shocks applied with electric cattle-prods to sensitive parts of the body, including the genitals and mouth, hanging by the arms twisted behind the back, and exposure to cold water or cold temperatures. Women, particularly nuns, appear to be subject to some of the harshest, and gender-specific torture, including rape using electric cattle-prods and ill treatment of the breasts.

The Chinese government is unlikely to change its approach to human rights in response to our friendly overtures. After all, it will be applause that we shower upon them. All we could possibly achieve in making Beijing our sister city is adding a little gloss to appearances. Is that our intent in regard to human rights? While Tiananmen Square has scarred many memories, evidently it means very little to the ACT government. A sister city relationship with Beijing reflects very harshly on those who support it.

Also, we have the issue of religious suppression, which I have mentioned to some degree already. There are many practitioners in Australia. They do not constitute a political movement, whatever the Chinese Embassy staff may say. There are many people here who are attempting to continue their meditation practices and who are actually being victimised in Australia for continuing those practices.

They are alleging that they are under surveillance in Australia. We know from councils that municipal libraries in Sydney have been advised or encouraged to take Falun Gong books off the shelves. Falun Dafa participation in community festivals is being reversed or challenged. It appears that people in Australia are already becoming complicit in Chinese repression. I do not see how a sister city relationship with Beijing will do anything other than implicate us further in that process. I might say that the councils respond differently to these sorts of phone calls from Chinese officials. Some councils say yes and some councils say, "No, this is a free country and we will have what we like in our festivals or our libraries."

And what of the Labor opposition in this debate? The ACT government would fail on this motion were it not for the support of the ALP. I understand that, because the Chief Minister has so assiduously promoted relationships of every sort with China, the Labor Party now believes that we are beyond the point of no return. On that basis, the ACT Labor Party would have supported a sister city partnership with Johannesburg when Nelson Mandela was in jail. As long as Chief Minister Kate Carnell was there to drag us down the path, the Labor Party would have been quite comfortable tagging along behind.

I have real difficulty in understanding why they have taken this approach. I can only presume that members of the opposition—I do not think that it would be all of them—believe that they can enjoy the benefits of this sister city experience when government arrives in their lap without having to carry the can for it. I note Mr Stanhope's innovative proposal to send Rosemary Follett to China so that she can set up a branch of the ACT human rights office. Mr Stanhope may recall that we are losing human rights apace in Australia, even Canberra, despite Ms Follett's best efforts.

Beijing is a massive city and the Chinese regime is resolute in showing very little tolerance for dissent or worship. I do not know what Rosemary Follett thinks of the proposal of Mr Stanhope, but sending Canberra's Discrimination Commissioner to Beijing is entirely unlikely to shift the balance. In fact, the Australian government has been providing training in human rights to people who work for the military regime in Burma. I think we can all see the stunning effect that this initiative is having on freedom of religious and political expression in that country right now. As members would be well aware, I am sure, San Suu Kyi has been put under house arrest again after having been denied freedom of access through her own country for 8 days.

Is it the business possibilities which excite the Labor Party and convinced it to forsake an ethical approach? Both the Labor Party and the Liberal Party are unable, apparently, to see beyond the rewards of power and money. They have limited their thinking entirely to business opportunity. I would remind members of a comment from Bob Brown, who, as I said, went to Tibet and visited the prisons, not on a propaganda bus. He would like people here to be reminded that the Beijing mayor would ensure any citizen setting up a Liberal, Labor or Greens party in Beijing was arrested and imprisoned. The Beijing city authorities and mayor are part of the ruling communist dictatorship. They support the jailing of the monks and nuns, the exile of the Dalai Lama and the banning of political parties and dissent throughout China and Tibet.

We do not exist in this small world of Canberra merely to serve local self-interests. What we do as a self-governing territory does have implications and resonance in the wider world. We of the ACT Greens are not at all alone in our rejection of this sister city proposal. I can assure you that I have received very many phone calls from Chinese people living in this country who will not put their name on a letter because they are nervous of what would come from doing so. We do have, however, plenty of advocacy organisations which are trying to assist those people who are denied basic rights, such as the right to put their name to a letter. I refer to organisations such as Amnesty International and the Australia Tibet Council.

As I said, the ACT Greens are not alone in their rejection of this sister city proposal. Many people in the broader ACT community are offended by it. We have formed a view on this issue through our work alongside grassroots organisations committed to international aid, community development and the ongoing campaign for social justice and human rights, from the local to the global. If the Labor Party and the Liberal Party are afraid to address the question of ethics and make their choices accordingly, they will wear that opprobrium.

Finally, allow me to remind members of a letter sent to us at the Legislative Assembly by a Chinese person. *(Further extension of time granted.)* I will read a short part of it:

> Dear Sir/Madam,
>
> I would feel abhorrence to have Beijing as a sister city of our peaceful Canberra. A capital of democratic country and the capital of a corrupted communist regime, what an interesting pair of sisters!
>
> I have no doubt that Beijing could be a powerful and even a very useful sister. But, it would also be the sister who killed her own children in front of the whole world.
>
> It is only 10 years since Beijing massacre, does blood of the democracy-seekers fade so fast that now we can only see the shine of money?

MR MOORE (Minister for Health and Community Care) (5.40): I rise to speak briefly after Ms Tucker's impassioned speech. There is a dilemma with it and with Mr Kaine's speech as well. The dilemma, as I see it, is that if you seek to change the way people manage human rights, how do you go about doing it?

If we were talking about, say, Ottawa seeking to change the human rights situation in Canberra over the way we deal with Aboriginal people and they said that they were not going to form a sister city relationship with us, we would say, "So?" and that would be the end of the matter. If, on the other hand, we had a sister city relationship with Ottawa and they were saying to us constantly how they manage their indigenous people, how they manage the North American Indians and the Inuit, and were not trying to be didactic, of course we would be interested. Just as we look at how other people manage their systems, it would be something for us to consider.

That is one sort of approach. On the other hand, Mr Kaine and Ms Tucker have suggested that the way to handle this matter is just to say, "No, we are not going to do it and we will not have anything to do with you." That approach does work under certain circumstances. It worked, for example, in South Africa when the world basically said to South Africa, "No, we are not going to have anything to do with you. We are going to put on trade embargoes, financial embargoes and so on." The impact was significant.

The world is not going to do that with China. There has been no indication that the world is going to do that with China, so I think it is incumbent on us to say, "Can we reach out and try to persuade people that there are different ways of going about things?" That is the first part. The second part is that it is always easy to look at the way somebody else does things and develop a hate relationship. The potential that has across the world to deliver even worse outcomes is significant. For example, I am delighted to have one of my children studying Chinese, choosing this year at college level to take up Chinese as a language because he is interested in China's culture and language. Whilst that can be used in a wide range of areas, it is interesting that by that sort of process we can understand better where other people are coming from and bring about our influence in that way.

I have to say that the reason I am supportive of this sister city relationship is that I think that we are likely to have much more success by taking this type of approach than we are by taking the hard line approach advocated by others here. I recognise where they are coming from. I understand their perspective. I understand why they would want to go down that path and I respect the view that they have. I have a different view. I think that we should take this step and I think we should work with these people and attempt to influence them through this sort of approach.

MR STEFANIAK (Minister for Education) (5.44): I think I understand where Ms Tucker is coming from. I must say that I am rather impressed because she is one of the most left-wing members this Assembly has seen, yet she has brought forward a motion condemning repressive actions by a left-wing regime. Like Mr Moore, I can see exactly where she is coming from in terms of her concerns about arbitrary detention, torture and execution in China and I think that taking steps to try to rectify the situation is commendable. However, I do not believe that her cause would be served one iota by Canberra refusing to enter into a sister city relationship with Beijing.

Mr Moore has probably hit the nail on the head in saying that, unlike the situation with South Africa, the rest of the world suddenly is not going to stop trading with China and suddenly is not going to turn its back on China. I do not think that we are going to have a situation where China will be isolated like South Africa was isolated in relation to any human rights abuses. That simply is not going to occur.

This will be the 26th sister city relationship Beijing has entered into. It is interesting to consider the cities with which Beijing has entered into sister city relationships. We are talking here about repression and repressive regimes. We are also talking here about a fair bit of history in terms of repression and repressive regimes. I understand that the first city with which Beijing entered into a sister city relationship was Tokyo, although for over a thousand years the Chinese and Japanese had been bashing the hell out of each other in various conflicts.

I think that that is significant because it was not all that long ago, 1931, that Japan invaded China, Manchuria, setting up the puppet state of Manchukuo in 1933, followed in 1937 by an all-out invasion of China. There were atrocities such as the rape of Nanjing, where over 200,000 Chinese were massacred in six weeks and where Japanese soldiers had competitions to see how many heads they could chop off. I remember reading a book recently in which sublieutenant X and sublieutenant Y got up to about 103 and 105, respectively—quite horrific stuff.

Forty million Chinese lost their lives in that struggle. Per head of population, that has been matched only by the Soviet Union and exceeded only by Poland in horrible conflicts. Despite that, a sister city relationship has been entered into there. I do not think either country has forgotten what occurred in World War II.

Mrs Carnell has referred to the cities with which we have a sister city relationship and the attempts by various other cities to become a sister city. We do not have sister city relationships with cities of some countries that you might think would be logical. Australia is an English-speaking country. The two great Western democracies, the United States and Britain, would be logical contenders, yet we do not have one with them. We have a sister city relationship with Nara in Japan. We are proposing today to have a sister city relationship with China.

Neither Japan nor China is in any formal alliance with Australia. They were not countries which came forth to offer assistance to us when Australia embarked on a great humanitarian mission in East Timor last year. The countries that came to our aid there were the traditional allies of this country—the United States, Great Britain, France, New Zealand and several others in our immediate region, about 16 countries in all. That is a salient point.

What exactly is a sister city relationship? It is certainly a way in which good things can occur for both cities in terms of economic benefits and people exchanges, as the Chief Minister has cited, but it is a very different thing in terms of some other forms of more formal contact between nations.

A lot has been said about China's civil rights record being appalling. I do not know how much people in this Assembly know about Chinese history. Despite the fact that there are arbitrary detentions, there is torture, there are executions and there are other things which many people in Australia would regard as awful occurring in China, significant advances have been made, certainly in the 22 years since the reforms started in 1978.

I would think that, as a result of those reforms in China and as a result of the processes set in place there, the opening up of China, the very liberal attitude that they have in terms of business especially and the overwhelming increase in Western contact with that country, it will not be terribly long in coming that further democratisation of that country and further improvements in human rights will occur.

Traditionally, life has been very cheap indeed in China, certainly in the period before 1978. The forms of torture used in medieval China up to the end of the Manchu dynasty in 1911 were quite appalling, ranging from the death of a thousand cuts to the execution of family members and criminals wandering around with mobile stocks on their heads and unable to feed themselves. Millions of people died in various upheavals in the 20th century, ranging from the warlord period to the period of the Guomindang, the Japanese occupation that I have mentioned, the Great Leap Forward and the Cultural Revolution, which also had horrendous effects not only in China, where so much of Chinese culture was wrecked, but also in Tibet, which I will come to in a minute.

But let us give some credit where credit is due. Since 1978, there have been significant improvements. Ms Tucker mentioned a few things which have happened in the last year which would indicate that some repression is continuing, but no-one who knows anything about history could say that there have not been significant improvements in the lot of ordinary Chinese people over the last 22 years. There is a burgeoning middle class there as more and more people become more and more wealthy as business is being freed up. That has to have some effect in terms of the further democratisation of that country. When and how, I do not know, but that is something that invariably will occur.

We can close our minds to it and back Ms Tucker's motion, but where is that going to get us? I submit that it will get us nowhere, Mr Speaker, because there are numerous Australian cities—indeed, I think the whole of the state of Queensland—which have sister city relationships with various cities in China. It is not a case of the rest of Australia going with us if we back Ms Tucker's motion. That is simply not going to happen.

What are the benefits of actually being more open and having contact? We are able to say to people from China the things we do not like. For example, we are able, if we do not close them off completely, to say things such as: "We do not agree with what the communist government has done in relation to invading Tibet in 1950."

Ms Tucker: Did you say that when you were over there?

MR STEFANIAK: I have said it to a few Chinese officials here, Ms Tucker, and I am putting it on the record now. We are able to say, "We do not approve of what you did in 1950. We are appalled with what occurred in Tibet during the Cultural Revolution." Indeed, the Dalai Lama, who has recently called for autonomy in Tibet, has even suggested that China could have control over foreign affairs and defence. That would be very much like the British protectorate system. That is a most reasonable call. I am happy to put on the record that the Dalai Lama's position there should be supported. It does enable us to do that. By exposing their people to our citizens, they will be able to see how we operate.

Mrs Carnell mentioned the Chinese students who come here. Yes, I think more and more of them will be coming here. From living in a democratic society in Australia, they will hear criticism of what their regime is doing. They will hear it from their friends. They will see it and hear it in the media. Surely that is a very good way of getting a point across.

Mr Speaker, why are they coming here? I was in China recently and had talks with officials there. I was interested to hear one senior official say that they like to have their students coming here not only because it is a safe place and for a number of other reasons like that but also because of our education system, which makes students think and challenges them. A communist official said that. If they have that kind of attitude, surely the logical result of that will be that things happening in their own country will be challenged, which would only lead to further improvements.

I do not think that we will get anywhere at all by backing Ms Tucker's motion, by making such a gesture. We can probably make the point quite forcefully, at greater length and more often through the various contacts that we have with people from China, be it from students being exposed to our system here, through to business contacts and contacts with officials. That is certainly a way of doing so.

I will not go over what the Chief Minister said. She mentioned a number of things in relation to benefits that we would get, including the fact that some of these people will be able to visit this country and see our democracy in action and, hopefully, some of that will translate back to them. *(Extension of time granted.)*

Some of the worst excesses in China's history in terms of repression and a complete lack of civil rights occurred when China was isolated from the rest of the world. They occurred when China closed shop during the Cultural Revolution. They occurred in the 19th century and before that when China was absolutely closed to the world. The worst excesses in terms of human rights in the Soviet Union occurred when that place was totally closed to the world. Some of the worst excesses in history occurred in the Stalinist era when it was very difficult for anyone to get in except on invited tours.

The contacts with the West which came about through the mass media and in other avenues in the 1970s and 1980s probably had a very significant effect on the decline of the Soviet Union and the Soviet empire. But it was not just the contact that led to the decline. Contact is terribly important, but another important thing for any democratic country is that it remains strong and does not compromise on its principles. I would submit that the Soviet Union was defeated with the change of system, although that is still evolving and there is a mess over there at present. It was also defeated by the fact that the West basically stood up to it. The Soviet Union did not win the arms race. The West had a strong, democratic system with strong, democratic alliances. I stress that it is crucially important for a country such as Australia to remain in that system.

I just cannot see how support for Ms Tucker's motion would assist in doing what Ms Tucker seeks to do. I think that there are other ways in which that will happen. Just looking at how events are evolving, there are some very positive signs that things will improve in China, but it means that countries which are interested in this issue and can pressure China in any way to improve the situation certainly should do so.

The United States should do so and other Western countries should do so, but I do not think that it is going to help one iota if Canberra, one city amongst a number of cities in Australia which already have sister city relationships with Chinese cities, goes down the path Ms Tucker is seeking to take us. I do not think that is going to assist at all. I think that this government has a far better chance with what it has been doing—the evolving relationships that will flow from the contacts we have made and will continue to make—of ultimately achieving what Ms Tucker seeks with her proposal.

MR RUGENDYKE (5.57): I will be brief, Mr Speaker. There was an interesting picture/story on page 3 of the *Canberra Times* on Tuesday about the Australian National University's Dr Colin Groves leading a team of scientists who are on the brink of proving the existence of several mystery mammal species as a result of the discovery of a treasure trove of forgotten specimens in the basements of the Beijing Institute of Zoology and Shanghai's National History Museum. The Australian members of that team returned recently from China, where they had catalogued the specimens.

If there was ever a prime example of a spirit of cooperation between the two nations, that would be it. The government would like us to build on this type of cooperation by forming a sister city arrangement with Beijing. I, like everyone else in this place, acknowledge that China does not have a proud history on human rights issues. However, I would suggest that everyone in this place would also acknowledge that China's record in this area has improved in recent years.

Mr Osborne: Read this.

Ms Tucker: I told you that it has not.

MR RUGENDYKE: Some members disagree. A vast country like China is not going to be turned on its head overnight; it will be a gradual process. I believe that we should be taking the opportunity to engage with the Chinese, rather than isolating them. We should take the opportunity to work with them and be a positive influence in human rights issues.

My feeling is that we should be building bridges and encouraging the Chinese. The Canberra Chinese Special Events Committee has made representations to this effect, stating that greater accountability, openness, acceptance of the rule of law and respect for human rights can be best achieved by fostering friendly ties through sister city programs rather than punitive actions or isolation.

The Chief Minister mentioned a letter from the president of the ACT Chinese Australian Association, Mrs Alice Chu. I was going to read the same quote, but it is now on the record and I will not repeat it. Suffice it to say that I value my friendship and association with Mrs Chu as a neighbour, apart from the last few weeks. But I will repeat the following quote:

> The motion to be put forward by Ms Tucker is counterproductive to the forward looking and positive expectation of the ACT citizens and a step backward to the push for multiculturalism in Australia.

Mr Speaker, I believe that the Assembly should support the sister city arrangement with Beijing, not as a sign of condoning China's past record, but with a view to helping to foster a continued improvement of human rights issues in that country.

Sitting suspended from 6.01 to 7.30 pm

MR STANHOPE (Leader of the Opposition) (7.30): This is an issue that has occupied the thinking of the Labor Party for some weeks now in a quite serious way. It is an issue that is quite complex in terms of the process and the route by which we find ourselves debating a proposal for a sister city relationship between Canberra and Beijing.

The Chief Minister first wrote to me in relation to this on 17 August 2000. I think it is fair to say that the first formal notice or acknowledgment that I or the Labor Party had that it was proposed that there be a sister city relationship between Canberra and Beijing was in the Chief Minister's letter of the 17th. I did have some notice prior to that, of course, with Ms Tucker's proposal that the ACT not assist with a sister city relationship between Canberra and Beijing. It was not until some time after that, as I say, 17 August, that Ms Carnell formally wrote and asked for support of her proposal to enter into a sister city relationship with Beijing.

I was concerned at that late notice, having regard to the advice that it was proposed that the sister city relationship be formalised on 13 September, next Tuesday. So we have what I regard as quite a remarkable circumstance—formal advice on 17 August that the Chief Minister would be seeking Assembly support for a sister city arrangement which it was proposed be formalised on 13 September. So, of course, I asked Ms Carnell, the Chief Minister, for some advice and justification for the proposal, not having been formally involved prior to that time. I wrote to her on 21 August and I said:

> Thank you for your letter of 17 August informing me of your intention to move this motion... You have asked for Labor's support of your motion.
>
> Before Labor could offer such report, we will need further advice from you. First, we need definitive advice from you of the tangible benefits to Canberra of the proposed sister city arrangement. In this context, I note your comment that under existing arrangements there are already a number of business initiatives under way. Given this success why do we need a sister city relationship and how would these initiatives be advanced by it?
>
> You say in your letter that there have been approaches from numerous other cities. Could you give me the names of these other cities and the reason for declining their approaches. I am interested also in the reasons for discarding in this instance the cautious approach you say you have adopted to sister city relationships.
>
> I note that there has been extensive consultation with relevant organisations. I would like to know the names of the organisations consulted and their response to the proposal.

> You state that the Commonwealth Government is supportive of your Government's China policies and initiatives—does this apply specifically to the sister city proposal? I would appreciate copies of any correspondence between you and the Commonwealth on the proposal."

The Chief Minister responded to that letter on 28 August, just over a week or so ago, thanking me for my letter and purporting to provide the information that I had sought. The Chief Minister did repeat some of the things that she mentioned in her speech about the links that already exist and the fact that there has been a range of negotiations. An MOU resulted from a meeting between the Canberra/Beijing Cooperative Business Council at its meeting in March 2000 in Canberra. Ms Carnell also mentioned visits between the two cities, opportunities for business, and the desire that Beijing has expressed over the past few years to enter into a sister city relationship et cetera.

Then, in relation to the specific question of whether we have had any approaches from any other cities, I was somewhat surprised to be advised that, in addition to the fact that we had been negotiating with Beijing for some years, over the last three years the following cities had also approached Canberra with regard to developing sister city relations: Zakopane in Poland, Port Moresby, Samara in Russia, Atlanta in the United States, Ottawa in Canada, Çanakkale in Turkey, Pretoria in South Africa and Beijing in China. The Chief Minister advised that the only one of these approaches that had been responded to in any positive way, that in effect had not been unilaterally rejected or denied by the ACT government, was that of Beijing.

I think it is very unfortunate that we in this Assembly learn in this way, after the event, that in fact eight cities over the last couple of years have made an approach. I think it is a pity that none of this has been put on the table, that none of it has been exposed to the light of day and that none of those initiatives have been pursued.

That begs a number of questions, of course, about things other than the arrangement with Beijing. It begs a question or two about the sister city notion and the sister city relationships. Exactly what are they? What are they intended to achieve? Why is it that we enter into those sorts of relationships in any event? To the extent that the Chief Minister sought to answer that question in her correspondence to me, she talked about—

Ms Carnell: If you had listened to my speech, it was in there.

MR STANHOPE: Yes, I am acknowledging that. The Chief Minister did seek to acknowledge the benefits. She indicated that there are significant economic benefits and that these are reflected in the cooperative arrangements that are resulting from the work, in particular, of the Canberra/Beijing Property Business Council.

In response to some of the other specific questions that I asked the Chief Minister, she gave me specific advice in relation to the support. The question that I asked in particular was this:

> I note that there has been extensive consultation with relevant organisations. I would like to know the names of the organisations consulted and their responses.

In response to that the Chief Minister acknowledges that, through the cabinet consultation process in relation to the decision to enter into a sister city relationship, all ACT government agencies were provided with the opportunity to comment and that one of those agencies, the Department of Education and Community Services, had responded. It was quite worrying to me that that was the extent and the nature of the consultation response that attaches to this proposal. The ACT Department of Education and Community Services responded, saying this:

> Thank you for the opportunity to comment on the policy paper…The Department of Education and Community Services strongly supports the proposed Canberra Beijing Sister City Relationship. Such a relationship will enhance the marketing of educational services in China.
>
> The development of relations over the last few years has already led to increasing numbers of full fee paying students in the ACT. At present there at 121 full fee paying students attending ACT Government schools and about 55 attending the CIT.

There were some other attachments to the Chief Minister's correspondence from a range of significant community organisations representing the Canberra community in a number of guises, very respectable and significant organisations, including support from the Multicultural Council.

I then asked the Chief Minister to give me further information on the extent to which the Commonwealth had been involved and the extent to which the Commonwealth had a view on this. In response to that the Chief Minister provided me with correspondence between herself and the Australian Ambassador to China. The Australian Ambassador to China was very supportive of the proposal, was most willing to be of assistance to the ACT, and indicated that it would be appropriate in relation to the development of the sister city relationship to focus on business and trade. He talked in significant praise and support of the proposal. But that was all.

There were just the two letters to the Australian Ambassador. There was no correspondence as such with the Department of Foreign Affairs and Trade, although the Chief Minister in her speech indicated that there were a number of communications. I do not know when they were received or why they were not attached to the correspondence that was provided to me, and that is a pity. It reinforces my very significant concerns about how flawed this whole process and arrangement has been.

The government has been negotiating for three or four years, but none of us were advised of that and none of us were involved. At no stage along the path was there an attempt to take the Assembly with this proposal. If there was no attempt to involve either the Assembly and us as representatives of the people or the Canberra community, there was certainly no attempt to take along with this proposal the broader Canberra community, and I think that is a serious error and a serious flaw in this whole proposal.

It was not until the last month or so that the people of Canberra, the residents of this community, were appraised of the fact that this was even in the wind. There was no real prospect of genuine consultation or a genuine attempt to take the people of Canberra with the proposal. To the extent that there is a special feature or nature to assist a sister

relationship, it is a real pity to enter into such a venture if you really have no way of knowing what your community, the community you represent, truly thinks about it.

A significant section of the Chinese community, those people in this community of Chinese heritage, a large, growing, influential and significant section of this community, in their discussions with me through their representatives, have been supportive of the proposal. Nevertheless, the broader community simply has not been involved. To the extent that we are to propose this as a special relationship, a sister city relationship, between this community and the Beijing community, I think that is a real pity.

To some extent I think this case almost represents how not to progress a sister city relationship. No real empathy has been developed within the Canberra community for the development of a special relationship between the people, not the governments, of Canberra and the people of Beijing. So I have major criticisms of the Chief Minister and the government for the way they have handled this. I think it has been handled extremely badly, with no consultation and with no attempt to genuinely justify why we should have a special relationship with Beijing.

That is not to say that I do not think sister city relationships have a role to play. I think they certainly do. I think they are a good thing. To some extent I was quite impressed by the information that the Minister for Education provided tonight. In fact Beijing, in its first sister city relationship, and we would be one of many, entered into a relationship with Tokyo. I think that provides significant food for thought. It is a great example of two historically warring enemies.

As the minister indicated, prior to and during the Second World War they were engaged in perhaps the most bloody conflict of the century. There are estimates that between 20 million and 40 million Chinese died in that conflict at the hands of the Japanese. Fifty years later the people of Beijing, having suffered the most appalling atrocities at the hands of the Japanese, were prepared, on a people to people basis, to enter into this sort of relationship with the people of Tokyo. I think that is a very significant fact. I think there is a real role for sister city relationships over and above economic advantages, but let us not be too holy about it.

There is very good reason for the ACT to engage with China, the sixth largest trading partner that Australia now has. There are very significant reasons for us to engage with the fastest growing economy and one of the most powerful economies in the world. Let us acknowledge that there are very good solid economic reasons for us to engage with China and for us to forge a special relationship with Beijing.

I think we need to recall in the context of this debate that what the government is proposing here is a municipal arrangement. This is not a government-to-government arrangement. In the context of sister cities, the Chief Minister in effect is acting in her role as mayor of Canberra, not as Chief Minister of the ACT. I think that is a factor that has been overlooked in the debate by those who have spoken against the proposal. This is a relationship being developed by mayor to mayor on behalf of the people, not by government to government, and it is a quite significant factor.

Government-to-government arrangements are the sorts of arrangements that we rely on our federal government to provide and extend. In that regard, I did write to the foreign minister, Alexander Downer, and I asked him what were his government's attitudes to this sort of arrangement. He said, "Well, it's got nothing to do with us. This is an arrangement between communities; this is an arrangement between peoples. It is not an arrangement between governments." I think there is some force in the argument that through engagement one can make advance.

Showing my age, I remember distinctly Gough Whitlam's trip to Beijing in 1972. Do you remember how Gough Whitlam was howled down, derided, challenged and ridiculed for daring to reopen diplomatic relations with China in 1972? Can you remember it? He was the first Western leader. Do you remember how he was derided?

Mr Kaine: The Leader of the Opposition is going to vote for this motion.

Mr Osborne: Is he? Have you worked that out after—

MR SPEAKER: Order! Mr Stanhope has the floor.

MR STANHOPE: He was derided and castigated because he dared, as the first Western leader, to seek to open the doors to China. He went there. Who here does not think that China, as a result of that first step, has not improved? It has, quite significantly. Things have changed dramatically since China opened up.

Mr Kaine: You prove it.

MR STANHOPE: There is no doubt about that.

Mr Kaine: It is no good saying it; prove it. Put the evidence on the table.

MR STANHOPE: It is a shining example. I think it was one of those significant moments in history. His visit there preceded a visit, I think, by Richard Nixon by one week. It was from then that China did open up to the rest of the world. It is a significant argument that can be made. We can disagree about it, but I am one of those who are more inclined to believe that progress will be made through some sort of engagement. There are opportunities through these sorts of arrangements to have a real influence. The fact that China has opened to the world shows that it has worked. It does work around the world. There is a prospect for us to play a role, if we so desire.

I was quite concerned, being a usual supporter of Ms Tucker, to hear her condescending and derisive dismissal of any prospect of Rosemary Follett, the ACT Discrimination Commissioner, having any role to play in relations between Canberra and Beijing in the sister city relationship. I think there is a significant role in a relationship between this community and that community for the ACT Discrimination Commissioner. Our discrimination mechanisms and reporting requirements could be put at the forefront of discussions with the people of Beijing; not with the government of China but with the people of Beijing, those who actually run that city just as our people run our city.

Ms Tucker: She is going to tell them what their rights are and then they will get put in jail for it.

MR STANHOPE: I do not agree with the approach that Ms Tucker takes to these sorts of issues—that it is best, basically, to retreat into splendid isolationism. It is classic head in the sand stuff.

Mr Kaine: I take a point of order, Mr Speaker. I do not recall Ms Tucker saying anything about isolation or isolating China. That was not the gist of what she had to say. I think the Leader of the Opposition has an obligation to properly acknowledge what Ms Tucker said.

MR SPEAKER: It has been a very free-ranging debate, which I welcome. I am sure all members do. There is no point of order.

(Extension of time granted.)

MR STANHOPE: I will summarise and conclude, Mr Speaker. Our position is that we are quite appalled by the way in which the ACT government has handled this issue. We think it has been incredibly badly handled. There has been no attempt to engage us or to engage the Canberra community. I think, as a result, that the arrangement will get off to a very unfortunate start. It is a real pity that in what we intend to be a special relationship there will be bitterness and recrimination from the outset because there was no real attempt to weld the people of Canberra to the idea.

I think to some extent that as a result of this experience the notion of sister city relationships has been quite seriously demeaned. The currency has been devalued quite seriously as a result of the way in which this business has been handled. I do not quite know how we will regenerate it. I think the currency of sister city relationships is badly devalued by this. We certainly do need to find another way of dealing with these issues.

Having said that, the deal is done. The Chief Minister signed off on this in March. In one of the letters that she provided to me she indicated that arrangements were made for the Mayor of Beijing to arrive here next week to formalise the arrangement. To some extent, whilst I think the process was appalling, I believe it was open to the Chief Minister, acting as the government, to do what she has done even though I do not accept it. I reject that process absolutely.

I will get the last couple of points on the record. On that point of rolling it back, the Mayor in Beijing is not sitting by the phone waiting for a call saying, "Come to Canberra. We have agreed to go ahead with the sister city relationship." He was told in March that we were proceeding with this. I reject that process. I think it is appalling, Chief Minister, that it was done. He is not sitting by his phone. He has arrived and he is coming to Canberra next Tuesday. He is coming here to sign the arrangement. To some extent I think it would simply be unacceptable for this Assembly to overturn a process that the government has put in train.

I have to say something concerning the human rights issues.

Mr Osborne: Oh, yes, this will be good.

MR STANHOPE: It really is quite staggering to hear these interjections from the One Nation sorts of representatives over there.

MR SPEAKER: Do not respond to interjections, please, Mr Stanhope. They are out of order.

MR STANHOPE: This is the most wonderful coalition I have ever seen, Kerrie Tucker and Paul Osborne, the Greens—

Mr Kaine: And me. Don't leave me out. I think your position is untenable.

MR SPEAKER: Sit down, please, Mr Kaine.

MR STANHOPE: You want to be part of the party but you are not part of the coalition. I really am concerned when I see the rigorous Left and the outrageous Right combined on an issue. I do wonder what the agenda is.

Ms Tucker: Could it be we look at the issues and do not be so superficial, Mr Stanhope?

MR STANHOPE: Oh, be so superficial and so condescending, so holier-than-thou, so isolationist. I am looking at the issues.

Mr Osborne: He is embarrassed.

MR STANHOPE: I am not a bit embarrassed. I am not a bit embarrassed in relation to my attitude to human rights and my defence of human rights. I take the point that Mr Moore made; that we can disagree on these issues. I do disagree with those who think we should isolate ourselves from those whose practices and attitudes we disagree with. I do not agree—

Ms Tucker: We don't want to isolate. We don't want to congratulate.

MR SPEAKER: Order, Ms Tucker! Please.

MR STANHOPE: I do not approve of or support the attitude of the Chinese government and its repression of Tibet, or the crackdown on any sort of organisation or collectivisation. I do not support any of that, in China or anywhere else. I do not support mandatory sentencing, and it is an issue that I have pursued longer and harder in this place than anybody else.

I know that Mr Osborne supports mandatory sentencing and was not prepared to support a motion in this place condemning the governments of the Northern Territory or Western Australia. Mr Osborne does not condemn mandatory sentencing in the Northern Territory. I am prepared to engage with the people of the Northern Territory. I am not suggesting that we do not engage with them in any way.

There is a whole range of things I do not support. I do not support the fact that under the California mandatory sentencing regime one in every three black Americans is in prison. I do not support the fact that in Texas, over the last few years, there have been almost 300 executions, almost every single one of them being a black man. But not for one

second am I suggesting that I would not support a sister city relationship with a city in one of those states or a city in one of those nations. I think you could name almost any country around the world and we could find a significant human rights abuse there, and I condemn and will agitate against those abuses everywhere and at any time. But I also do not think we advance the cause of people in those nations by refusing to engage with them and by refusing to seek to develop a special relationship through the sister city relationship.

Our position is that we think the argument has not been made that we should not engage in sister city relationships. We do not think this one has been made out particularly well. We think the process is genuinely appalling and we refuse to be a part of the rubber-stamping of that process, but we have not been persuaded that the matter should not go ahead. We will not rubber-stamp it.

Mr Kaine: Some of us will vote against it.

MR STANHOPE: Some of you will vote against it. The Labor Party will not. We have indicated that we will not oppose the formalisation of the arrangement, but we will not be a part of the process that delivers it.

MR OSBORNE (7.58): That was one of your better efforts, Jon; 28 minutes, and only in the last minute we worked out why you were not going to support the motion. Just on the Labor Party, Mr Speaker, I cast my mind back to the last time we had an issue on sister cities in this place. I remember it was back in 1995 or 1996 and it was in relation to nuclear testing. It is interesting to read some of the speeches of the Labor Party in relation to suspending our sister city relationship with Versailles. It seems to me that it is okay to oppress your people and it is okay to murder. There are pages and pages here of human rights abuses in China. That is okay as far as the Labor Party is concerned: "We will not stop the sister city relationship, but that is okay, yes." A number of years ago, when nuclear testing was done in the Pacific—

Mr Stanhope: Tell us about mandatory sentencing.

MR SPEAKER: Order! Mr Stanhope, please. Mr Osborne has the floor.

MR OSBORNE: I just feel the need to read some of this. Mr Berry, for example, talked about that issue, Mr Speaker. This is a quote from Mr Berry:

> Mr Speaker, the corporate image is alive and well amongst the Liberals. The same insensitivity to the issue of nuclear testing exists now as existed when the Liberals first endorsed a move to this twinning arrangement, at a time when the photographer aboard the *Rainbow Warrior* was murdered by the French. We have just heard Mrs Carnell use the same arguments as Mrs Thatcher used in the case that dropped the sanctions against South Africa. Look at how effective that would have been. The world sanctions on South Africa worked; and here we have Mrs Carnell mouthing the same language as Mrs Thatcher used in the argument against those sanctions, which were rightly taken out by the world community and which resulted in freedom for the African people.

Do not worry about the Chinese people, Mr Speaker. He went on to say:

> Mrs Carnell argues that it will not appear in the media in France if we tear up this agreement. I can tell you, Mrs Carnell, that it will appear if you endorse it—or if you appear to endorse it, because if you do not support this motion you will give the appearance of endorsing what the French—

the Chinese—

> are doing, and their propagandists will be quick to pick up that issue. So, let us stop kidding ourselves. We have here the opportunity to demonstrate to the people of the ACT that this is a people's chamber, a chamber that recognises its responsibilities as part of the world community even though it is a territorial government. It is also an opportunity for us to demonstrate to the people of Versailles that other small communities in the world are prepared to stand up on this issue—

but not on human rights issues—

> and urge the people of Versailles and of other parts of France to reflect on what has occurred in relation to the performance of their Government.

There is no-one here from the Labor Party.

Here is a quote from Mr Wood:

> We must react with the greatest vigor against the French and against China, although we do not have a sister city relationship with China...

According to Mr Wood it is okay to have a sister city relationship with China when there are numerous reports on their human rights abuses, but if we had a sister city relationship with China and they did some underground testing he would be in here and be very indignant about what they had done and would tear up that agreement.

Mr Speaker, I would like to table something that I took off the Internet. It is the report by Human Rights Watch entitled *China and Tibet*. I will not go through that because I do have some more documents to read. I will just read the first part:

> Controls on basic freedoms were tightened during the year, in part because of Chinese authorities' desire to ensure stability on several sensitive dates. These included the fortieth anniversary of the March 10, 1959, Tibetan uprising, the tenth anniversary of the crackdown in Tiananmen Square on June 4, 1989, and the fiftieth anniversary of the founding of the People's Republic of China (PRC) on October 1, 1949.
>
> Trials of dissidents—and there were many—were neither fair nor open.

I seek leave to table that, Mr Speaker. I also seek leave to table a number of documents from the US Department of State's human rights reports for 1999.

Leave granted.

MR OSBORNE: I table the following papers:

China—Extracts, dated 7 September 2000, from 1999 Country Reports on Human Rights Practices, released by the Bureau of Democracy, Human Rights and Labour, US Department of State, February 25, 2000. (Pages 1, 5, 7, 9 to 48 (inclusive), 33 to 35 (inclusive), 38, 40 to 43 (inclusive), 45, 47 to 54 (inclusive), 57 to 63 (inclusive), 65 and 66, 69 to 73 (inclusive) of 73).
China and Tibet—Human Rights Watch, dated 7 September 2000.

I will now read a couple of quotes from that report which I have just tabled. I went through it today and I thought that the best way to handle this would be to quote some of the information on what is going on in China. The first quote is this:

> The Government's poor human rights record deteriorated markedly throughout this year, as the Government intensified efforts to suppress dissent, particularly organized dissent. A crackdown against a fledgling opposition party, which began in the fall of 1998, broadened and intensified during the year. By year's end, almost all of the key leaders of the China Democracy Party (CDP) were serving long prison terms or were in custody without formal charges…

It goes on, Mr Speaker:

> Control and manipulation of the press by the Government for political purposes increased during the year. After authorities moved at the end of 1998 to close a number of newspapers and fire several editors…
>
> Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference, repression, and persecution. The Government continued to enforce 1994 State Council regulations requiring all places of religious activity to register with the Government and come under the supervision of official, "patriotic" religious organizations. There were significant differences from region to region, and even locality to locality, in the attitudes of government officials toward religion. In some areas, authorities guided by national policy made strong efforts to control the activities of unapproved … churches; religious services were broken up and church leaders or adherents were harassed, and, at times, fined, detained, beaten, and tortured. At year's end, some remained in prison because of their religious activities.

A bit further on it says this about the government we are going to sign a sister city agreement with:

> Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in violation of international human rights instruments for peacefully expressing their political, religious, or social views.

Mr Speaker, there is more. It goes on to say:

> The authorities released fewer political prisoners before their terms were over than in recent years, although three were released early.

Some of those released were kept under surveillance and prevented from taking employment or otherwise resuming normal lives. There were also reports of increasing surveillance of dissidents. Under the heading "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment", the report says:

> The law prohibits torture; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with detainees and prisoners. Former detainees and the press reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse against detained men and women. Prominent dissident Liu Nianchun, who was released in December 1998, reported that guards used an electric stun gun on him. Persons detained pending trial were particularly at risk during pretrial detention due to systemic weaknesses in the legal system …

Under the heading "Arbitrary Arrest, Detention, or Exile", it says:

> Arbitrary arrest and detention remain serious problems; there were more reports of long incommunicado detentions than in 1998. Because the Government tightly controls information, it is impossible accurately to determine the total number of persons subjected to new or continued arbitrary arrest or detention…
>
> Some dissidents are under heavy surveillance and routinely had their telephone calls with foreign journalists and diplomats monitored; there were reports that surveillance of dissidents increased during the year. Before he was arrested and sentenced to 8 years in prison for alleged subversion, Beijing CDP member Gao Hongming's meetings with foreign diplomats often were monitored and sometimes even videotaped by security personnel.

I will go to the next page. Under the heading "Freedom of Speech and Press", the report states:

> The Constitution states that freedom of speech and of the press are fundamental rights to be enjoyed by all citizens; however, the Government restricts these rights in practice. The Government interprets the Communist Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government does not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenge Communist Party rule.

On the next page, Mr Speaker, the report refers to freedom of peaceful assembly and association. *(Extension of time granted.)* It says:

> The Constitution provides for freedom of peaceful assembly; however, the Government severely restricts this right in practice…At times police use force against demonstrators. In January the Western Press reported that one protester was killed and more than 100 others were injured when police dispersed 3,000 villagers in Hunan province protesting corrupt government and high taxes…In late October, police in Ganzi township, Ganzi Tibetan Autonomous Region, western Sichuan reportedly clashed with up to 3,000 ethnic Tibetans protesting the detention of 3 monks, including the respected Buddhist teacher Sonam Phuntsok, from nearby Dargye monastery a few days before… The police reportedly fired upon the crowd injuring some protesters. It is unknown whether any persons were killed. Up to 80 ethnic Tibetans reportedly were detained in connection with the incident.

Under the heading "Freedom of Religion", the report says:

> The Constitution provides for freedom of religious belief; however, the Government seeks to restrict religious practice to government-sanctioned organisations and registered places of worship and to control the growth and scope of the activity of religious groups. During the year, some unregistered religious groups were subjected to increased restrictions—and, in some cases, intimidation, harassment and detention—although the degree of restrictions varied significantly from region to region, and the number of religious adherents, in both registered and unregistered churches, continued to grow…
>
> The Government continued, and, in some areas, intensified a national campaign to enforce 1994 State Council regulations and subsequent provincial regulations that require all places of worship to register with government religious affairs bureaus…There are six requirements for the registration and establishment of venues for religious activity: Possession of a meeting place; citizens who are religious believers and who regularly take part in religious activity; qualified leaders and an organised governing board; a minimum number of followers; a set of operating rules; and a legal source of income. There are five officially recognized religions—Catholicism, Protestantism, Buddhism, Islam, and Taoism.
>
> At the end of 1997, the Government reported that there were more than 85,000 approved venues for religious activities. Some groups registered voluntarily, some registered under pressure…

There is more, Mr Speaker, on the abuse of different religions over there. There are many sections in that material that I have tabled, Mr Speaker, that mention the Falun Gong people who certainly have been under the spotlight recently.

Section 3 of this report is headed "Respect for Political Rights: The Right of Citizens to Change Their Government". I will just read the first line:

> Citizens lack the means to change their government legally, and cannot freely choose or change the laws and officials that govern them.

This is a great city to be dealing with, Mr Speaker. Section 4 is headed "Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights". It begins:

> There are no independent domestic NGO's that publicly monitor or comment on human rights conditions. However, an informal network of dissidents in cities around the country has become an incredible source of information about government actions taken against activists. The information is disseminated to the outside world through organizations such as the Hong Kong-based Information Centre for Human Rights and Democratic Movement and the New York-based Human Rights in China.

Here is a good section for the Labor Party, Mr Speaker, section 6, "Worker Rights—a. The Right of Association". I will read a bit of this because it is interesting to the workers party over there. It states:

> The Constitution provides for "freedom of association;" however, in practice this right is subject to the interests of the State and the leadership of the Communist Party. The Communist Party controls the country's sole officially recognised worker's organization, the All China Federation of Trade Unions. The head of the ACFTU is a member of the Standing Committee of the Central Committee of the Communist Party...

Here, independent trade unions are illegal. The report continues:

> The 1993 Trade Union Law required that the establishment of unions at any level be submitted to a higher level trade union organization for approval,—

I look forward to that piece of legislation coming from the Labor Party soon, Mr Speaker—

> and only approved registered unions are legal. The ACFTU subsumes under its authority 16 industry-based and 31 provincial-level labor unions. They, in turn, have jurisdiction over roughly 586,000 "grassroots" labor unions nationwide...

It goes on to say:

> The Government has not approved the establishment of any independent unions to date.

On the next page, Mr Speaker, it says this:

> The Government continued its efforts to stamp out illegal union activity, including through detention or arrest of labor activists.

I hope Mr Berry, in particular, is sitting up there listening to this. It continues:

> For example, activists Li Jinhua and Yan Jinhong were sentenced in January to reeducation-through-labor for 18 months and 12 months, respectively. The two had been arrested in 1998 after leading steelworkers in Sichuan to protest unpaid wages by blocking a railway.

The hide of them. The hide of the union people blockading a railway because they were not paid. What's going on with the world? I continue:

> Zhang Xucheng was arrested for participating in the same protest and still is awaiting sentencing. Also in January, Zhang Shanguang, the founder of the short-lived Association to Protect the Rights and Interests of Laid-off Workers, unsuccessfully appealed the 10-year prison sentence he received in December 1998. Zhang had been convicted of "illegally providing intelligence to a foreign organization" after informing a Radio Free Asia reporter about worker protests in Hunan province. In April workers in Tianjin announced the formation of the Chinese Association to Protect Worker's Rights. In July labor activist and China Democracy Party member Liao Shaohua was arrested on subversion charges after taking part in a workers' demonstration outside the provincial government building in Changsha, Hunan. He was sentenced to a total of 6 years on December 22.

How is that for workers' rights, Mr Speaker?

Mr Kaine: You will notice that the Leader of the Opposition is not listening. He has been diverted.

MR OSBORNE: He is embarrassed. There is more there, Mr Speaker. I have tabled that. The next heading is "Tibet", Mr Speaker, and under "Respect for the Integrity of the Person" the report says this:

> The Chinese Government strictly controls access to and information about Tibet. Thus, it is difficult to determine accurately the scope of human rights abuses. However, according to credible reports, Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views. Tight controls on religion and on other fundamental freedoms continued and intensified during the year, especially during sensitive anniversaries and occasions…According to the Tibet Information Network, an independent news and research service based in London, political protest by and detention of Tibetans is both increasing and spreading throughout ethnic Tibetan areas, especially in ethnic Tibetan areas outside of the TAR.

Further on the report says:

> While there was limited political violence in Tibet during the year, several political protesters were beaten severely by security forces. According to many credible reports, one protester … who attempted to raise the outlawed Tibetan flag with explosives tied around his waist during the National Minority Games in August, is still in the hospital because of severe head injuries received during a brutal public beating by security forces.

Mr Kaine: This was just a friendly, little discussion.

MR OSBORNE: That's all, yes. It continues

> An unconfirmed report has claimed that he, in fact, died from his injuries…Several groups also reported mistreatment and beatings of nuns in prisons.

There are pages on the atrocities in Tibet, Mr Speaker. This is the government we are going to sign a sister city relationship with.

Still dealing with Tibet, under the heading "Freedom of Religion", the report says:

> The Government maintains tight controls on religious activities and places of worship. While it allows a number of forms of religious activity in Tibet, it does not tolerate religious manifestations that advocate Tibetan independence or any expression of separatism, which it describes as "splittism." The Government harshly criticizes the Dalai Lama's political activities and leadership of a government-in-exile. The official press continued to criticize vehemently the "Dalai clique" and, in an attempt to undermine the credibility of his religious authority, repeatedly described the Dalai Lama as a separatist who was determined to split China.

I seek leave to table that document, Mr Speaker.

Leave granted.

MR OSBORNE: I table the following paper:

> China—Extracts, dated 7 September 2000, from 1999 Country Reports on Human Rights Practices, released by the Bureau of Democracy, Human Rights, and Labour, US Department of State, February 25, 2000. (Pages 2 to 4 (inclusive), 6, 8, 19, 25, 29 to 32 (inclusive), 36 and 37, 39, 44, 46, 55 and 56, 64, 67 and 68 of 73).

I would now like to turn members' attention to what is written under the heading "Horror of one-child policy", although I will not go into detail.

Mr Moore: This is what it is really about.

MR OSBORNE: No, no. *(Further extension of time granted.)* I will just read the first bit, Mr Speaker, and then I will table the rest. It says:

> The following first-hand accounts demonstrate why the text relating to coercive abortions, sterilisations, and forced contraception must be taken out of brackets and incorporated firmly in the final document.

This is in relation to a document of the United Nations, Mr Speaker. A book, *A Mother's Ordeal*, quotes a birth control worker who tells this story:

> A young woman in my factory had been unable to conceive a child despite three years of trying—and three successive birth quotas. Her problem had finally been diagnosed as an ovarian tumour. When surgery was performed not one but both ovaries were discovered to be diseased. The right ovary … was completely enveloped … was removed.

She was told that she would not be able to be pregnant and it would be impossible for her to conceive a child. I again quote:

> Hearing this, I had listed her on the population control registers as a … barren woman, and revoked her birth quota. Several months later, to everyone's utter amazement, she had gotten pregnant. The doctors declared it a miracle. Her fellow workers offered their congratulations. I went to offer my personal best wishes and found her delirious with joy.
>
> The problem was that I had no remaining birth quotas... Not only that, but I had already announced who was to receive quotas—

quotas for the next year—

> Her situation was so unusual that it cried out for a kind and sympathetic response. I had no sooner finished explaining the purpose of my visit than Director Huang exploded. "What are you saying?!" she burst out. "This year's quota has already been assigned…Absolutely not. You tell that woman that there is no hope, no hope at all". Defeated, I went back to the factory…She spent many weeks confined to the storeroom before I and others were able to convince her to have an abortion.

Regardless of one's views on abortion, Mr Speaker, I think everyone in this place would find it reprehensible that someone would be forced to have an abortion. There is quote after quote, story after story, in this material, Mr Speaker, which I encourage members to look at.

Female infanticide is another offshoot of China's one-child policy. Here is an eyewitness report, Mr Speaker. It is under the heading "The Shame of China: girl children abandoned to die of neglect". With the one child policy, obviously families in China want to have a boy and often young baby girls are abandoned. Here is a chilling account, Mr Speaker, of the abandonment and death by dehydration and starvation of baby girls in a Chinese orphanage. This is the government we are going to sign a sister city relationship with in a week, and it is too late to stop it. I hope Mr Stanhope is listening. Next door in another room, the dying room, in one bed there were four baby girls. I cannot read it, Mr Speaker. I will just table that. Read that, Mr Stanhope. I seek leave to also table Amnesty International's Annual Report 2000, Mr Speaker.

Leave granted.

MR OSBORNE: I table the following papers:

> China, including Hong Kong and Macao—Amnesty International Annual Report 2000—Copy of extract, dated 7 September 2000.
> Beijing—"Empowering Women—Critical views on the Beijing Conference"—Copy of paper by Melinda Tankard Reist, 1995.

Mr Speaker, we have learnt much today already about China's appalling record on the most basic human rights that any individual can expect from their government. What can we now learn from the major parties as they respond to the truths that we have heard? The Liberals are indeed content to set aside the issue of human rights to pursue the commercial gain. To some extent this is not much of a surprise, although it is nonetheless a great disappointment. The government today have made no bones about the fact that there is money to be made from a sister city relationship and they have put the blinkers on, as is the way with the Liberals in this country. It is no secret that the Liberals historically have had little to offer the downtrodden.

Mr Speaker, the big surprise for me is to see the Labor Party abandon their principles and good sense in favour of hard currency. When did the ALP replace the very core of their being and become such ardent capitalists? I have been amused today to hear Labor's pathetic excuses as to why they support this motion. We heard Mr Stanhope speak for 28 minutes, and it was not until the last two or three minutes that we heard that it was all too late. It was all too late to stop. That was my interpretation. Mr Kaine nods to me over there, Mr Speaker. Labor's pathetic excuses as they support this motion have been disgraceful.

In the 1960s the world finally became angered with the policy of apartheid and decided to do something about it. What was done? Did the majority of nations around the world form alliances with South Africa and seek to increase trade? Rather, they sent the strongest possible message that until apartheid no longer officially existed our contact with them would be minimal. The majority of Australians were happy to go along with

the sporting, trade and cultural sanctions that were in place for nearly three decades. It took time, Mr Speaker, but it eventually worked. Recently we saw Mr Mandella in town, and what a tremendous testament he is to perseverance, Mr Speaker. I accept that the situation in China is different from that of South Africa in the 1960s. The Chinese are not persecuting people of another colour. They are doing it to themselves and their neighbours. One of the major differences I can see today is that we can profit commercially by becoming mates with Beijing, while there was nothing in it for us with Johannesburg or Cape Town back in the 1970s and 1980s.

To Labor's discredit and embarrassment, I trust the ACT movement would know the right response to this motion today. On numerous occasions the Trades and Labour Council have protested outside the Chinese Embassy on the issue of human rights. I cannot specifically recall, but I am sure the union stalwarts of the ALP like Mr Berry probably joined them.

To the ALP's shame today, I would remind Mr Stanhope, the former president of the ACT Civil Liberties Council, and Mr Berry, a former union official, that the TLC formally passed a motion last night opposing a sister city relationship with Beijing. How can Labor now say that they stand up for the workers? How can they say they have any credibility when they say they stand for freedom of association, freedom of speech, the rights of the child, civil liberties, or other basic human rights? Mr Speaker, they have no credibility left on these matters after this vote today.

I will be joining with my colleagues on the crossbench, Mr Kaine and Ms Tucker, and voting accordingly. I thank members for their patience.

MR BERRY (8.28): Mr Speaker, I was outside listening to Mr Osborne's contribution to this debate. I will not take long because it will not take long to expose this man. Mr Speaker, this is the man who voted for this Chief Minister who has perpetrated this sistership relationship. This is the man also who was able to gain special considerations for himself. He is able to engage the government in things of his choice. For example, he was able to make sure that the government was influenced by his position on abortion. He was able to convince the government to discriminate in favour of police. He was able to ensure that the government changed its views on poor drug users.

Mr Osborne is capable of many things, but he is not capable of getting them to change their mind on this. This is a sham.

MS CARNELL (Chief Minister) (8.29), in reply: Mr Speaker, I think it has been a very unfortunate debate. I do not believe there is anybody in this place who would support the human rights abuse that happens in China, or for that matter the human rights abuse that happens here in Australia to our indigenous community, or for that matter the human rights problems that occur in many parts of the world.

Mr Speaker, it is very interesting to me to hear comments from the Labor Party with regard to process in this issue. Members will be aware that I invited various members, the Leader of the Opposition and others, to accompany us to China and Japan in 1998 on the basis of forming a closer relationship with Beijing. Also, I tabled an official report from that trip in December 1998 which showed the development of that relationship. We have had a number of signing ceremonies and other things such as media events.

Members have been asked to attend in many circumstances. This relationship has grown over the years. I think you would have had to have been blind not to have seen what was happening. You would have heard, also, that our relationship with China was growing and that we were looking at a relationship that would, hopefully, if everything went appropriately, end in a sister city relationship.

Mr Speaker, I think the sorts of comments we have heard from a number of people today were just a little bit rich. I seem to remember that last year Ms Tucker was very keen for us to form a sister city relationship with Phnom Penh.

Ms Tucker: No, it wasn't last year.

Mr Moore: The year before, I think. It was the year before.

MS CARNELL: The year before, was it? Well, I am sure I still have the letter. Mr Speaker, I would not have thought the human rights issues were all that squeaky clean in that part of the world either, but that seemed to be the view at the time. Maybe that just suited the environment at that moment.

Mr Speaker, when it comes to Mr Kaine, we have heard Mr Kaine show a lot of displeasure about this sister city relationship. It was interesting to look at two particular circumstances. One was on process. Rosemary Follett let the Assembly know on 19 October 1993 that she planned to sign a sister city relationship with Nara. She signed it in Japan on 26 October, a week later. She announced it to the Assembly and then went to Japan and signed the agreement. It had never been raised in the Assembly prior to that time. At least, we cannot find mention of it, and no-one can remember it prior to that time. At that particular time Mr Kaine got up and supported Rosemary Follett. He said it was a wonderful idea. He went on to say:

> I am also delighted to hear that the Chief Minister—

that is, Rosemary Follett—

> intends to pursue other twinning proposals. I am sure that there are many cities throughout the world, perhaps some of them in those areas that we sometimes refer to as the Third World, that could benefit.

He went on from there, Mr Speaker. Then, Mr Kaine, when talking in the debate on Versailles, made some very interesting comments when he was disagreeing very strongly with the approach that some members of the Assembly were taking with regard to discontinuing the relationship with Versailles. He said this:

> Are we going to do that to every government that takes an international action that displeases us? If we are, we should chop off the Japanese, we should chop off the Chinese, we should chop off the United States, we should chop off the Brits. Who would be left in the world that we could talk to?

He does go on with that approach, Mr Speaker. If you chop off relationships with people every time they do something that you don't like much, it does not lead to good international relations. That was what Mr Kaine said back on 20 June 1995.

Mr Kaine: Mr Speaker, I think I'm being Gary-ed, but I'm not sure.

MR SPEAKER: There is no point of order.

MS CARNELL: Mr Speaker, it is always unfortunate. People don't like having their own words quoted back to them.

Mr Speaker, the Labor Party has as part of its platform, chapter 15, securing Australia's place in the world. It finishes by saying it is imperative that Australia seek to work with China bilaterally and regionally and in global forums. It was Gough Whitlam, back in 1972, who formed the first set of relationships with China and in fact led the Western world back into China at that stage. I thought that was an extremely brave and courageous thing to do at the time, and it has turned out to be an extremely wise decision.

Mr Kaine: That was before your time, wasn't it, Chief Minister?

MS CARNELL: Well, I was at school.

MR SPEAKER: How chivalrous, Mr Kaine.

MS CARNELL: Mr Speaker, nobody supports human rights abuse. The difference here is that we on this side of the house believe that the way to influence other parts of the world is through friendship, through closer relationships, through cooperation and communication. That may, and can, change the world.

MS TUCKER: Mr Speaker, I seek leave to speak again. This is a cognate debate and I would like the opportunity to respond to the issues that have been raised.

MR SPEAKER: It is a cognate debate.

Leave granted.

MS TUCKER: Thank you very much, members. I will respond firstly to the most recent points which were made by the Chief Minister. I did notice the report that was tabled from Mrs Carnell and other acquaintances who went to China. I did not notice whether there were any visits to jails when they were there. I think that would have been quite enlightening. I know that my colleague Bob Brown, while in Lhasa, was able to visit jails and to speak to people who were being victimised by the Chinese regime. I will read one little story from Senator Bob Brown's report about a political prisoner in Lhasa. It says:

> He died on April 8, 1999 as a result of injuries sustained through torture while he was in jail from March 1988 to April 1998. Accused of killing a policeman during the March 5 riots in 1988 in Lhasa, Sonam Wangdue was tortured on numerous occasions in prison, sustaining permanent injuries to his head, kidneys and lungs. He ended up confined to a wheelchair. At his trial he insisted that his testimony had been obtained under torture.

As I have already explained, evidence obtained under torture is admissible in China. This report continues:

> The Tibet Information Network reported that methods of torture inflicted upon Sonam Wangdue included suspension from the ceiling, beatings with electric cattle prods and deprivation of food. Tibet Information Network also reported, through an interview with a former inmate of Drapchi jail named Bagdro: "One morning he was taken to the apple orchard where he was beaten and subjected to the electric prod. We heard him calling for his mother and asking to be killed. We were all deeply upset and we wept."

Maybe if Mrs Carnell and her friends had visited the jail she might have a different view. Mrs Carnell and other members have said that they do not like abuses of human rights. They said that when we discussed mandatory sentencing, too, and I did remind them of the quote that all it takes for evil to flourish is for good people to do nothing. Once again, that is what we see from this government. At least the Liberals are consistent, though. They are consistent in their refusal to acknowledge these issues and to take a role.

When I spoke at the International Conference on Healthy Cities I spoke about the World Trade Organisation and local communities. I made the point quite clearly in support of our minister for health's statements about how important it is to empower local communities and how important it is for the health of local communities to be able to engage in all sorts of discussions. I raised the issues of the World Trade Organisation and the international issues that are impacting and affecting many local communities around this world.

In particular, I want to talk a little bit more about the issue of trade, considering that that is what Labor and Liberal have both focused on. They seem to be telling us that if we have a flourishing relationship based on business with developing countries the human rights issues will resolve themselves. Well, they may be interested to know that since we have had freer world trade we have seen an increase in investment from multinational corporations into countries which are either dictatorships or the least democratic countries in the world. I guess it is pretty obvious why that would be. It is because there are fewer regulations, and people who might want to have high environmental standards or labour standards are shot or got rid of, and this obviously suits the profit motive of multinationals.

Another particularly interesting issue has come up in terms of free trade, which Mrs Carnell and her supporters and apparently the Labor Party like to raise. The benefits of free trade have now been questioned in the racism conference in South Africa which is occurring at the moment. Mary Robinson, the Human Rights Commissioner, for the first time has asked for the economic dimension to be put on the agenda because since freer world trade we have seen an increase in racism around the world. That is one issue, of course, that we do not have any real discussion about. In fact, we have not had any real discussion on any of the issues of substance tonight from the people who are opposing my proposal, which is that we do not support this proposal.

We have seen Mr Moore and others very busily looking at *Hansard*, trying to find something that somebody said once which is not consistent with what they are saying today. That is really tragic. A lot of substantial issues have been raised here tonight and they have not been addressed.
Mr Moore's speech was offensive. I think he would be better to say nothing, as he so often does these days when he is selling out totally by

voting with the government. He would have been better to say nothing tonight rather than say what he said.

I really could not hear all of it because I was discussing some issues with the Clerk, but I did hear him refer to a hate relationship. He did not want a hate relationship. That is offensive. I have made it quite clear through my presentation that I am not isolationist. Nowhere was there any mention of hate from this side of the chamber, or from Mr Kaine or from Mr Osborne. What we have raised are issues of civil inherent rights. Mr Moore then made a trite homily about his daughter learning Chinese and presented himself as a wise and guiding light. That is not addressing the issue and it was also offensive.

Mr Stefaniak made the comment that, somehow, I am so left how could I possibly criticise the communist regime? Mr Stefaniak, not quite; close enough. Mr Stefaniak, if you had been listening to the debate you would know that I am focusing on issues of human rights. I would have thought that was the issue you should have been addressing, not making ridiculous comments about Left and Right. Then I heard Mr Stanhope do it. I cannot believe that. Mr Stanhope of all people. He must be so embarrassed. I see that there is not one Labor member in this place. I understand that maybe they are not going to come back in, and that is pathetic. If they feel so uncomfortable with this proposal they should be voting against it.

I heard Mrs Carnell talking about the benefits of engagement. I addressed that in my presentation speech. I made it quite clear that, according to those people who are watchers of human rights around the world, since bilateral engagement and the softly, softly approach, things have got worse, not better. Mr Stefaniak said things have got better since 20 years ago. Yes. Then they have got worse in the last 10 years, and in the last couple of years since the softly, softly approach has been taken.

Mr Stefaniak said, "We will be able to deal with these issues when we do our education exchanges." Mr Stefaniak, I will give you leave to stand up and tell us how many times you mentioned human rights when you were in China last week, and Mrs Carnell as well. I would like to know how many times you raised these issues and what the response was. I would really like to know the response, too, if you did raise them. I am sure other members of this Assembly also would like to know exactly what came of that.

I cannot believe sometimes how you can put up arguments and it is as if people were not in the chamber at all. How many members here said, "It's not good to be isolationist and you must not do that," as if I have said I want that. I said clearly in my speech that I am not isolationist. I do not want to isolate China. I just do not want to congratulate China.

Mrs Carnell said that Phnom Penh was in a proposal that I made. That did come to me from the aid community a couple of years ago. From memory it was after Pol Pot and the whole brutal regime there collapsed and we actually had a democracy. It was not perfect. I am not saying it was perfect, but what we saw at that point in time was an opportunity for that devastated tragic country to move forward. What was put to me as a proposal from members of the community, once again—it was not my idea—was that, as we had cancelled Versailles, couldn't we have some kind of relationship with a developing country that was altruistic?

Ms Carnell: It was a sister city relationship.

MS TUCKER: Yes, a sister city relationship with that particular city, Phnom Penh, where for the first time they had a democratic system. It was not perfect, I admit, but it was on the brink of moving forward. People thought it would be useful to support that. It was going to be an altruistic sister city relationship. I talked to CanTrade. They said, "No, you do not have sister city relationships with places like Phnom Penh because you do not make money out of it." I said, "Oh, is that what sister city relationships are about?" because I was not aware of that before. That is consistent, of course, with the arguments coming here.

Many people have come to me and suggested that Dili would be a lovely place to have a sister city relationship with. There are strong feelings in the Canberra community about Dili. They have gone to Mrs Carnell. "No," she says. Instead, I read in the *Canberra Times*—I will talk to this issue more because it is a process issue and I will be able to address it in the part of my motion that we will be able to look at separately—that we were having this sister city relationship with Beijing. This is a minority government. This is a house that is supposed to represent the people of the ACT. How come I have to read about it in the paper?

Maybe Mr Rugendyke knew. He knows things I do not know, quite often. I am not in the right circle. I do not know whether Mr Osborne knew. Labor certainly did not know. So, if this is about the ACT community engaging with the government about where we would like to move with a sister city relationship, why were we not informed and why were we not told quite some time ago? It is not a satisfactory process at all.

In conclusion, I just want to say again that I am not saying we should isolate Beijing. I am certainly not saying that we should not engage with cultural exchanges. What I am saying is that what the current regime is doing in China is absolutely offensive, and we cannot congratulate Beijing by having a sister city relationship.

MR SPEAKER: The member's time has expired.

Question put:

> That the motion (**Ms Carnell's**) be agreed to.

The Assembly voted—

Ayes, 8	Noes, 3
Ms Carnell	Mr Kaine
Mr Cornwell	Mr Osborne
Mr Hird	Ms Tucker
Mr Humphries	
Mr Moore	
Mr Rugendyke	
Mr Smyth	
Mr Stefaniak	

Question so resolved in the affirmative.

CHINESE CITIES—SISTER CITY RELATIONSHIPS

MS TUCKER (8.53): I seek leave to amend my notice of motion on the notice paper by omitting paragraph (2)(a).

Leave granted.

MS TUCKER: I move:

> That this Assembly—
>
> (1) noting the Secretary-General of Amnesty International has written to the President of the People's Republic of China expressing strong concerns about a recent increase in human rights abuses in that country, and calling on the government of China to "take steps without delay to stop arbitrary detention, torture and executions and to take radical action to reform the law enforcement and justice system to China, showing the international community a real commitment to implement meaningful human rights reforms in China".;
>
> (2) calls on the ACT Government to in future present all plans for sister-city or friendship-city-relationships to the Assembly before taking steps towards such arrangements.

I will speak only briefly because I think the matter was covered in the previous debate. My motion calls on the government in future to present all plans for sister city or friendship city relationships to the Assembly before taking step towards such arrangements. That is to address concerns raised by Labor. They argued that this is supposed to be a whole-of-Canberra thing as much as is possible and that, as elected representatives in this place, we would like to be part of the decision and part of the development of the idea, and not just read about it in the newspaper.

Question resolved in the affirmative.

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

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

> That this bill be agreed to in principle.

MR CORBELL (8.55): Labor will not be supporting this bill, because the Assembly has already taken a decision on this issue. Change of use charge has been debated in this Assembly for a lengthy period. It has been widely examined not only by committees of this place but also by outside agencies. The government itself commissioned an independent study.

The Assembly was presented with the government's preferred position on this issue about three months ago. The government said, "We believe change of use charge should be 50 per cent." The minister came into this place and he said, "We need certainty. We need a concrete decision. We need no more chopping and changing on this issue. The

Labor Party and crossbenchers have created too much uncertainty on this issue. We need a definite decision."

We made a definite decision. That definite decision was to reject the government's proposal for 50 per cent change of use charge and to resolve that the existing provisions of the act should take effect. Every member in this place knew that if they were voting against 50 per cent change of use charge then the provision of the act would take effect on 1 October this year.

What are the provisions of the act? They are that on 1 October this year 75 per cent change of use charge will sink over the horizon. It will be sunsetted. What will it be replaced with? It will be replaced with a 100 per cent change of use charge. That was the clear and definite decision of this place. The minister is not happy, because he lost. He cannot have it both ways. He cannot run around Canberra saying that we need certainty, we need to stop making decisions on these issues, we need to make a final decision and get on with it and then, when he loses, decide that he is going to try again. It is not an acceptable proposition from someone who talks about certainty.

Let us talk about what 75 per cent change of use charge means. It is an open slather subsidy across the board. It is a 25 per cent subsidy free-for-all. The minister talks about encouraging high-quality design. The minister talks about encouraging sustainability in design, but where is the incentive for that to occur?

With 75 per cent change of use charge, it does not matter if you are building a basic design at the bottom of the market and filling up the place with insulation to get a five-star energy rating. You still get a 25 per cent subsidy. The people who make the effort to build high-quality urban design, high-quality buildings with good sustainability principles and good environmental principles get the same subsidy. There is absolutely no incentive to improve the standard of urban design. The subsidy goes to the worst performers as well as the best performers. That is a nonsense proposition. That is what 75 per cent change of use charge across the board does. In fact, that is what any level of subsidised change of use charge across the board does.

The Labor Party has stood up in this place frequently and told the government that there are some instances where remission of change of use charge is an acceptable policy tool to achieve specific policy outcomes. We have to look no further than across the road at what is happening in Civic. We have supported the remission of a percentage of change of use charge—in the case of the Civic revitalisation, 100 per cent—to achieve a particular planning outcome. It is targeted, it is focused in a particular area and it is meant to achieve a particular urban design outcome. That is a sensible way of using remission of change of use charge. That is the approach this government should be taking. That is the approach this Assembly should be endorsing. Seventy-five per cent remission across the board is a nonsense. It does not achieve that.

I sought advice—and I had discussions with Mr Osborne on this issue—from the Office of Parliamentary Counsel on what options were open to me to try to get this very specific way of remitting change of use charge into the bill the minister presented last week. The advice from the Office of Parliamentary Counsel was that I could not amend the bill in the way I was seeking; I would need to introduce a separate bill which would amend the

act and the subordinate regulations to achieve the outcome that I have just put forward as the most desirable way of handling this.

Unfortunately, the minister left it all too late. I am not in a position to put forward a bill which will achieve that outcome. But the Labor Party is not prepared to accept 75 per cent across the board. The Labor Party would be prepared to accept a continuation of the sunset clause for a month or two in order to substantially debate the issues I have just raised. We are not prepared to accept 100 per cent becoming the status quo. Once 100 per cent becomes the status quo, we will be on the back foot. The government will come into this place and say, "You are trying to change the goal posts again." We are not prepared to play that game. We are prepared to implement some sensible policy that provides for remission in circumstances where we are achieving good planning and urban design outcomes, but we will not allow an across-the-board free-for-all.

The minister proposes an across-the-board subsidy free-for-all. We can liken this to the government saying that absolutely everyone in Australia should get unemployment benefit just to make sure we do not miss any of the unemployed. I thank my colleague Mr Quinlan for that analogy. It is a good way of describing what this government is proposing to do. This government says, "To make sure that we help those people who need help, we are going to give it to absolutely everyone who is developing anything and who requires a change to their lease." It is a nonsense proposition. It is a silly way to go, and we are not prepared to accept that the status quo should become 100 per cent.

The minister had a very long time between three months ago, when the Assembly made its decision on his 50 per cent bill, and last week. There was at least one other sitting week before last week, but he left it until the last minute to introduce legislation to return change of use charge to 75 per cent. That has left this Assembly with little choice but to reject his bill.

I foreshadow that if the minister's bill is agreed to in principle I will be moving an amendment to extend the period of the sunset clause to 1 November. That will at least give this Assembly time to talk about targeting remission of change of use charge, instead of just going for the blanket free-for-all the minister is proposing.

Let us reinforce some basic principles on this issue. Who owns the land in the ACT? The community, the people of the ACT, are entrusted with the ownership of the land on behalf of the people of Australia, through the Commonwealth government. It is not private freehold. It is a leasehold system. We own the land, we are responsible for the management of the land, and we are entitled to get a fair return on the land.

It is hard to imagine that any private landlord would say that their tenant should be entitled to 25 per cent of the rental return on a property. But that is exactly what the government is saying. They are saying that the tenant is entitled to 25 per cent of the value of the rent they pay. That is an enormous windfall gain to a small number of people in the ACT.

That is the basic principle we are still debating in this place. Unlike the Liberal Party, which is absolutely fixated by anything to reduce and give away that public asset, we are prepared to put forward serious proposals that allow for remission in specific circumstances that benefit the community overall.

Let us talk about the impact that a blanket remission of changing use charge has. It encourages speculative redevelopment. It does not encourage redevelopment where we need it. It does not encourage redevelopment where it is in the community interest. It only encourages speculative redevelopment. Anyone with a big block of land in an old suburb can say, "This block of land is worth a lot of money if I sell it as a single dwelling property, but if I put another dwelling on it I can just about double my money." That is speculative development. It is not socially useful. It does not achieve purposes which we as an Assembly try to set through the Territory Plan. It simply allows people to make a windfall gain by changing the character of their suburb, their street, their neighbourhood—by building dual occupancy, by removing backyard trees, by increasing the levels of hard standing in local areas, by changing the microclimate of suburbs so that they are hotter with fewer trees. All those issues flow from an across-the-board 75 per cent change of use charge at 25 per cent remission.

There are ways around this: you require change of use charge to be at 100 per cent unless specific criteria that warrant a remission are met. I hope that Mr Osborne is appreciative of that difference. You have specific criteria which target sustainability, good environmental design and retention of existing trees on a block if it is dual occupancy. You table in this place an instrument which says we will remit a certain level of change of use charge if these criteria are met. The Assembly, if it wishes, can disallow that instrument. That is the way to use a tax and remission of a level of taxation as an incentive to provide a good urban design outcome. The minister has not put anything on the table that does that in concrete terms. He has talked about sustainability. He has talked about issuing directives to PALM in terms of approvals. But he has not linked that to the taxation regime; he has not linked that to change in use charge.

That is the direction in which we should go. I made a statement publicly earlier this week to that effect. It is an absolutely outrageous proposal to come in here at the death knell, the last sitting before the current sunset clause takes effect, and to say, "You must do this and there is no room for anything else to be considered." Labor will not support a status quo change of use charge which is 75 per cent. Labor asks this Assembly to reject the minister's bill, return change of use charge to 100 per cent and get on with looking at how we can sensibly remit change of use charge in specific circumstances to achieve good urban design outcomes. That is the sensible approach, not the free-for-all the minister is proposing tonight.

MR OSBORNE (9.13): I voted against the government's attempt to lower betterment to 50 per cent last time. But at the time I certainly had not made up my mind whether I was comfortable moving to 100 per cent. I even indicated to Mr Smyth on the day that I would consider leaving betterment at 75 per cent.

I do not have a strong view on betterment one way or the other. I try to avoid such planning issues like the plague, but unfortunately I get dragged in. I have had a discussion with Mr Corbell today. I have indicated that I am prepared to look at his legislation, which he has informed me he has not been able to have drafted.

We have two options before us. We can support Mr Smyth's bill and remove the sunset clause—I was somewhat confused about what approach to take when I was discussing it with Mr Corbell today—or, as I indicated to him, we can extend the sunset clause for a month or two so that we can have time to look at Mr Corbell's legislation.

The ball is in Mr Corbell's court. He wants to extend the sunset clause so that the status quo remains until I have had a chance to look at his legislation. I have indicated that to Mr Smyth. I am prepared to look at what Mr Corbell is proposing, but obviously we need to make a decision one way or the other before the end of the year. Rather than reverting to 100 per cent until Mr Corbell brings his legislation before the Assembly, it is probably more sensible to stay at 75 per cent, either by extending the sunset clause or by removing the sunset clause and coming back to the issue later when we look at Mr Corbell's bill..

I have never stood up in this place and given approval to either 50 per cent or 100 per cent. I voted against 50 per cent, but it was a vote on that issue, not a vote on 100 per cent or 75 per cent. I am open to Mr Corbell's proposal and look forward to seeing it when it is ready.

MR HIRD (9.15): Once again we see the shifting sands. Mr Corbell indicated that we are playing into the hands of solicitors and valuers and those who have money to manipulate the difference between leasehold and freehold. There is no difference. If the territory government can prove it is for the public good, they can resume the land under the Land Acquisition Act, because in 99 years it can roll over.

I heard Mr Corbell talk about windfalls. If there is a windfall, it is a windfall for families who have lived in the territory for a vast number of years and capitalise on land they have acquired. You only have to look at the older areas such as Ainslie or Braddon where families have grown up and people have sold their property to move into quiet areas in the twilight of their lives.

Labor people talk of some great windfall or some manipulation. I notice that the sands have shifted and Mr Corbell is now saying that he does not quite want the 100 per cent, but he would be happy with the 75 percent betterment charge applying until he can introduce an amendment in November. The naivete of the man! This is a very serious question. If you started today to develop something, it would take from 18 months to two years, and in some cases 36 months, to complete it.

Mr Corbell heard evidence given to the Standing Committee on Planning and Urban Services that the return to the developer over 36 months was less than 25 per cent. We also took evidence from developers who were going to build aged persons units in the ACT. They wanted to be able to say that they had their holdings in the national capital. Mr Corbell knows that, because of the barriers, because of the shifting sands, those developers went to Albury. In some instances commercial development is taken across the border to Queanbeyan.

These issues have been moving around for a number of years, yet between 1970 and 1991 the betterment charge was 50 per cent. For 21 years it held firm. It is only since 1991 that we have had a shifting sand approach by respective ministers. Mr Wood as minister also shifted the sands. He made a decision of 50 per cent betterment on one occasion.

I do not agree with Mr Corbell, who wants to move an amendment to extend the sunset clause until November. In that event, nothing will happen until November. No-one will take on a development.

Mr Berry: Rubbish!

MR HIRD: Of course, Mr Berry has to get into the act. He is an expert on everything. Yet he was not in the chamber to be an expert in the debate on China. I would like to put that on record. I have never seen anyone turn their back on a community before, but that happened and Mr Berry was part of it. So I would be quiet at the moment, Mr Berry, if I were you.

Des Nicholls said that the system we have is archaic and outdated. The betterment system is long overdue for revision. In New South Wales the section 94 contribution scheme imposes an up-front sliding scale fee, so the developer knows where he or she is going. Requirements under that scheme include increased community facilities such as parks, open space, stormwater works, roads, sewerage, et cetera. The developer knows from day one exactly where they stand, so that they can move on and do their sums. They can bring in a development which they are proud of and which the community can be proud of too.

I believe the New South Wales approach would be more beneficial, but you cannot change things overnight. I realise that it will take some time. I believe that that is the path we should take in tackling this very vexed problem. However, in the interim, 50 per cent is something the industry has agreed to. However, as a compromise—and that is the art of politics—75 per cent should be imposed. We should not have any shifting sands. The 75 per cent should be there so developers starting on developments that will come on line within 18 months or 36 months know what the up-front costs are.

If there is a change of government in October next year, developers' pacemakers will need new batteries, because those opposite would change the ground rules. If you are making a significant financial commitment, you need to know the up-front costs from day one.

I agree with Professor Nicholls that the current situation is inadequate, but we have to make it work for the good of the people of the territory. Further down the track we should look at ways of bringing in the system operating in other jurisdictions, which allows the developer and the community to know what they will get at the conclusion of the development—whether it is environmentally sustainable, whether it is something they can be proud of, what the costs are and what returns there will be to the community by way of infrastructure such as parks, roads or whatever.

Why don't those opposite look at history and see why we have a betterment tax? They know exactly why, but of course they are playing politics, as they always do, and they will come out with egg on their face. Labourers, carpenters and bricklayers in the industry need continuity of work.

I commend the minister for establishing some sense of stability. If we start a development today, the developer will know what the cost are at the conclusion of the development. The people opposite have changed because they are frightened that certain members who voted with them when this matter last came before the house may vote with the government.

MR MOORE (Minister for Health and Community Care) (9.25): There is nothing slick about Mr Hird. We got it exactly as it came. You knew what you were getting. You got it straight in the eyeball. He revealed the goal of the Liberal Party to get rid of the leasehold system. Mr Hird put it to us that we should be using the system used by local governments right across New South Wales. If they keep developing it, improving it and tweaking it, they might just get somewhere near what we have in the leasehold system.

Professor Nicholls was not the only person who looked at the leasehold system. Before him there was Mr Justice Stein, Professor Troy and Mr Yeomans. Before that there was an inquiry by Professor Neutze, which was reviewed by Mr Langmore and his committee in the federal parliament. There were also a number of other inquiries.

The Liberal Party thinks they did not get it right. We know why you think that. You want to make sure you look after your mates, the developers. We understand that. We know exactly why that is your view. But report after report on the leasehold system has pointed out its benefits.

Mr Hird, it is not just a matter of betterment. That is one of the benefits of the leasehold system. The planning control mechanism is another. We can protect our land in a whole range of ways. The protection of our planning through the leasehold system is very clear.

The minister is obviously not prepared to take the flak but wants to share the flak with the rest of the executive. I would exempt myself, because I step aside on these issues. One of the proposed changes in the legislation is to omit the word "minister" and substitute "executive", because Mr Smyth does not have the wherewithal to stand there and take it himself. He has to share it with his Liberal mates. I think that is a good idea. The executive should make these decisions and take full responsibility, rather than ministers.

The delightful part of the debate on this issue is that the Labor Party has seen the light of recent times and changed their policy to 100 per cent change of use charge. Does it work? That has to be the main question in everybody's mind. If we do charge 100 per cent betterment, do we get a return to the community, or does it, as some would claim and as we have just Mr Hird claim, stifle development?

I spoke to the person who had just retired from managing the leasehold system in Hong Kong. Hong Kong has 100 per cent betterment. The whole time they have had it, development has been stifled. Nothing grows in Hong Kong. Nobody develops anywhere. There is no building.

Mr Smyth: Do they have a planning system like ours?

MR MOORE: Their leasehold and planning system is incredibly stringent, and they make no bones about it. There is no move. Mr Smyth interjected a moment ago, "Is their planning system like ours?" One of the discussions I had with the former head of the leasehold system in Hong Kong was about what happens when people breach their lease and how they clean that up. We had that problem in Fyshwick. Our approach was to say, "It has already been done. We will have to change their leases and give it to them."

In Hong Kong they did not. They gave them three years to change their lease. During that time the lessee had to pay extra rent as though they were working in an area of higher lease values. They were using residential areas for factories, effectively. The authorities in Hong Kong pursued the matter vigorously. We have never been prepared to do that. Maybe there are a lot of good reasons for that.

The fundamental point is what happens when you have 100 per cent betterment. People develop, because development is needed. They undertake development not so they can make money. They do it because they have a particular purpose in a particular area. It suits society for that to happen.

There are times when, for a specific purpose, we should give an exemption under our leasehold system. For example, we do not charge anybody for a lease for a church, because we see community benefit in having churches. We charge very little—a peppercorn rent—for scout halls and schools. We should be charging rent rather than a premium, but that is another debate. They are exemptions under our leasehold system.

When it suits society as a whole, we give exemptions for specific purposes. Exemptions were made to have development close to local shopping centres. Why do we do that? We as a society believe there is a particular reason to entice development for a particular purpose in a particular area. We did exactly that with Civic. We could see that Civic needed revitalisation. We wanted to bring people into Civic. We had a particular reason for wanting to do that. When you have a particular reason, that is quite a sensible policy and quite a good way to use your leasehold system. These are things, Mr Hird, wherever you are, that cannot be done under the sorts of freehold systems you were talking about. They can be used in a carrot-and-stick way and a very proactive way in our leasehold system. But if you minimise the betterment then you have less and less control over the system.

The ideal is to maintain the betterment at 100 per cent and use exemptions for particular community purposes. The leasehold system is designed specifically for the benefit of the community as a whole. I do not think Mr Smyth will mind me mentioning that he and I have talked about aged persons schemes. I said to him that it is quite clear that we need more aged persons homes. That is as far as the conversation has got. It is time we discussed an exemption of betterment for the development of aged persons homes and aged person units. Mr Corbell would probably be receptive to that notion. We would meet a particular need by using the leasehold system to our advantage.

I am open to talk about that; Mr Corbell is open to talk about that. We need to use the system like that. If you have a general reduction from 100 per cent to 75 per cent, who benefits? It benefits the developers who are interested in simply making money as opposed to benefiting the broad community. In other words, it benefits the individual

rather than the community as a whole. With the land set-up in Canberra, it ought to benefit the community as a whole.

We have a freehold system. It was not set up that way. That was not the intention. It is quite logical to allow people to benefit. If people in Queanbeyan want a different system, so be it, but here we can provide a particular benefit to the community. That is something we should not minimise or water down. We should retain 100 per cent.

MR BERRY (9.36): I will refer first to what Mr Hird said. It was not that long ago that Mr Hird was an avid campaigner for a 50 per cent change of use charge. He tried to create the impression that all the world would collapse without it. But tonight he is an avid campaigner for a 75 per cent change of use charge, because the world as we know it will change unless we change to 75 per cent. Coincidentally, the Minister for Urban Services was of the same view. He tried to convince members in this place—and he convinced Mr Rugendyke, as I recall last time—that 50 per cent was the go and that the world would change forever and the ACT just could not go forward without a 50 per cent use charge. Tonight he is saying a 75 per cent use charge is okay; that that is the way forward.

Mr Rugendyke: He wants zero.

MR BERRY: He wants zero. You have to go to the basics here. When it comes to resources, we do not have much in the ACT, compared to other places. We do not have mines and all of those things we can dig up and sell. We have our land, our people, our natural environment and our infrastructure, some of which has been sold.

Every time we dispose of a piece of land, we dispose of it on the basis of its use and we charge the user accordingly. When they change the use of it, we feel entitled to charge them more if the use brings a potentially bigger return for the developer. That is because we represent the people of the ACT. It is their land, in effect. We should turn that money back into useful community purposes rather than giving a windfall gain to an individual. We represent the community interest rather than the individual interest. I think Mr Moore made that point.

I heard Mr Hird and others say we need certainty. I am prepared to put money on this. If we reduced the change of use charge to 50 per cent tomorrow, only a few weeks would pass and somebody would be in here arguing for 25 per cent. If we changed it to 25 per cent, a few weeks would pass and there would be another line-up trying to get it down to zero. If we took it down to zero, it would be only a few more weeks and there would be some in here, the sharp ones, trying to get a subsidy. If we gave them a subsidy, it would be only a few more weeks and there would be another line-up in here trying to get an interest rate subsidy for the loans they had to take out for the development.

Businessmen do what they do best—that is, make money. We do what we do best by protecting the people's interest. The people's interest in this particular debate is their land, what it is used for and what it is worth for a particular use. It is a simple argument. It has been confused by a term not commonly used—"betterment". A lot of people would not understand what that means, unless they were close to the issue. "Change of use charge" would not mean much to a lot of people either. If you reduce betterment charges, the people's land is given away at a value which is less than it should earn.

Why should we do what Mr Smyth wants? I looked through Mr Smyth's speech, and I could not find much convincing about why we should change. Mr Hird said that we need certainty. I have been around this place for 10 years listening to arguments about betterment, and I have faced the line-up of developers. They have come here and told us that business will go elsewhere if we do not have betterment at X level or Y level, and so on and so forth. But I have never seen them produce any evidence that confirms what they were claiming was fact.

A great deal of mythology and legend has been created about change of use charges, betterment charges, in the ACT. On the one side of politics there has been a great deal of support for the mythology and legend that we cannot have development in the ACT while we have a change of use charge. My experience tells me that that is bunkum.

What should be happening in the territory is what was suggested by my colleague Mr Corbell. The standard should be the level playing field. If you want a piece of land in the ACT, you pay what it is worth; you do not get an automatic subsidy. That means a 100 per cent change of use charge when you change the purpose of your lease.

If it is in the community interest for a subsidy to be given in respect of a particular development proposal, then it is up to standards developed by this place to dictate the outcome. We are serving the community interest. The standard is 100 per cent. We get what the land is worth for the community. If a development is in the community interest, because of environmental or quality considerations or because development in the ACT has declined for one reason or another, subsidies can be argue for. Community interest should served rather than the individual interests of a developer.

We have an obligation to be vigilant and not endorse a system of windfall gains to developers. There is nothing wrong with developers per se. Developers perform an extremely important function in our community, but the responsibility lies with us to ensure that the community interest is served by the regulation of development in this place. We do not serve the community interest by giving away windfall gains.

I heard Mr Osborne say that he does not particularly like getting involved in the planning debate. It can be a turgid debate, no doubt, especially when a whole heap of people come to tell you that the system as we know it will collapse if we do not do something about change of use charge. However, what they say never happens, or they have no evidence to back up their claims. That is what is really turgid about the debate—all the myths that are thrown at you in relation to the change of use charge.

I have never seen evidence to support the general argument that the change of use charge is bad for development. Every development I have seen, whatever the change of use charge set, has essentially led to the change of use charge being passed on to the consumer in one way or the other. It does not matter that much in the scheme of things. I do not believe that 100 per cent change of use charge will affect development in the ACT. It will certainly mean that some developers will not get windfall gains. The fact that you have a standard change of use charge may affect the market in one way or the other. But it will stabilise things rather than cause a great many ups and downs in the market, which sharp developers can take advantage of from time to time.

I urge members to adopt this standard for the people's property—that is, payment for what the land is worth, as a general rule. That means 100 per cent change of use charge. Subsidies in respect of development in the territory should be decided on the merit of the case to suit the particular circumstances of society in the ACT at the time and there should not be a guaranteed windfall gain for developers as the Liberals want. As representatives of the community, we cannot afford to go down that path.

I go back to the point I made first. There were attempts in this Assembly to mislead members with the argument that the world would change if we did not have a 50 per cent change of use charge. That was just a short time ago. Now we are getting the argument that the ACT as we know it will change inescapably if we do not have a 75 per cent change of use charge. This is a very rubbery figure. I urge members who have supported the government on this score in the past or feel inclined to support them now to consider the veracity of the government's argument as it has been put. It has been shallow and thin, and I would argue that members are being misled in relation to this change of use charge. Members ought to stand firm on this issue to ensure that developers do not get windfall gains and that society at large is guaranteed full value for their land, their resource, their future.

MS TUCKER (9.47): I thought the debate on the change of use charge had finished last May when a majority of members voted not to support the government's bill to reduce the change of use charge from 75 to 50 per cent, preferring to let the rate return to 100 per cent when the sunset clauses ran out. My reasons for maintaining the change of use charge at 100 per cent have not changed since May, so I will not be supporting this bill.

The minister claimed in his presentation speech that the various amendments to the change of use charge over the last decade had created uncertainty for the development sector, but it should be noted that this uncertainty has been brought about by the efforts of the developers themselves and their agents in the Liberal Party to undermine the change of use charge.

The history of betterment, or change of use, charges in the ACT has been one of ongoing conflict between those who believe that the windfall financial gains that can arise for landowners whose land is rezoned from one land use to another should be returned to the community versus those who believe that these speculative gains are a necessary encouragement and reward to developers.

Anything less than 100 per cent change of use charge is an arbitrary figure. In fact, the government in its response to the Stein report agreed that the change of use charge should be 100 per cent but wanted to allow for remissions in particular cases where it thought it was necessary to provide an incentive for redevelopment. However, very soon after, in the 1996-97 budget, the government announced that the change of use charge would be reduced from 100 to 75 per cent as an encouragement to the building industry. However, after the Nicholls report, which recommended a 50 per cent rate, the government wasted no time in introducing the necessary legislation, which was first referred to the urban services committee and then defeated by the Assembly.

It has to be remember that land in the ACT is the key natural asset. We are a small territory, and we do not have mineral or significant agricultural resources. It is imperative that governments do not squander the value of the land. An original objective of the ACT's leasehold system was that increases in land value that accrue as the city develops should be returned to the community as a whole and not to individual leaseholders through speculative gain. The change of use charge does this by returning to the government the increase in land value on particular blocks where the lease purpose clause is changed from a lower to a higher value use.

The Greens believe that anything less than 100 per cent change of use charge represents a subsidy to those developers who are able to secure a change of lease purpose. The development lobby keeps pushing the line that this subsidy is necessary to facilitate redevelopment and that 100 per cent change of use charge has discouraged particular development proposals in the past. However, as I have said before, this claim has assumed the proportions of an urban myth.

Professor Nicholls admitted that such claims were only anecdotal and could not find any correlation between the level of the change of use charge and the level of building activity in the ACT. He found it was difficult, if not impossible, to isolate the effects of the change of use charge on investment from other factors affecting investment in the ACT—factors such as demand for office space and rates of population growth. But the government likes to build up this urban myth.

I agree with Mr Berry. I think the government has been quite misleading in the way they have handled this debate. Mr Berry asked Mr Rugendyke and Mr Osborne to address the issues. I think Mr Osborne has, but I am waiting to hear Mr Rugendyke's detailed responses to these issues.

I understand that the urban services committee was presented with evidence about some development not proceeding because of the change of use charge, but that it was conceded by the development lobby that it was not the change of use charge alone that resulted in the development proposals not proceeding. I would be very worried if government subsidies were artificially stimulating particular types of building developments which did not match demand. From a planning perspective, development activity should be led by demand from building users and not by whether there is a subsidy available for the development. If the government wishes to promote particular types of development, then it should do so in a direct, transparent manner that can be reviewed by the Assembly rather then relying on the blunt mechanism of a reduced change of use charge on all lease purposes changes.

I understand that Mr Corbell wants to extend the sunset clause and look at some kind of compromise in the form of criteria about what sort of development should be subsidised. That sounds like a sensible response. I think it would be useful to support an extension of the sunset clause, and I look forward to seeing what Mr Corbell comes up with.

I do not see why the government should be giving away revenue stream by reducing the change of use charge when there is uncertain public benefit from this move—apart from the benefit to developers' profits—and unverified impacts on development activities in the higher charge. So I will not be supporting this bill. I want the change of use charge to revert to 100 per cent, as currently provided for in the land act.

MR QUINLAN (9.52): Anything less that 100 per cent betterment tax is effectively a subsidy. I do not think the government denies that. You talk about encouraging development. To have a standardised subsidy, regardless of circumstance, is not rational, because it loses its effect. It is absorbed into the process; it is absorbed into the market price of the land.

We hear from the government that we need to stimulate development to keep the economy going. Earlier today we heard our Chief Minister telling us just what great shape the economy was in—record this, record that. Those record figures have been achieved with 75 per cent. So what fool would stand in this place and say we need to maintain it at 75 per cent when the economy is on the improve?

I am aware that in this town and in development generally it is often a better economic proposition to build a new building than redevelop an old building past its time in terms of reliability and services within it or an old building past its time because its design no longer caters for the way we do business, the way professional chambers are set out or the way buildings handle electronic wiring and the newer systems of communication. It is easier for a developer to build a new building. He usually starts with the client.

We need a system in Canberra that encourages and pushes development in one direction or another. We need a system which will allow us, when the need arises, to push redevelopment instead of new development. Mr Corbell wants to see a system—we have discussed this in our caucus—that gives us the capacity to say, for example, "Go to west Civic, where there is a decline in activity." We could create circumstances to prevent that part of the city from dying while we plonk new buildings up Northbourne Avenue. We need some form of control. I would like to see the government with a bit more control than it has now generally, but that is a matter of will and backbone, I suppose.

Let us have the economic framework that allows us some flexibility and some leverage to be able to push design and development and to have some control over our town. We represent the total community interest, whereas developers are only going to look at their particular development. Who blames them? That is quite fair. They will work to the edge of the envelope. We have to make sure the envelope is appropriately designed.

MR SMYTH (Minister for Urban Services) (9.57), in reply: We have heard some interesting comments and some interesting interpretations tonight. The government clearly went after 50 per cent change of use charge in May—we make no apology for that—and the Assembly said no. If those opposite wish to interpret that as meaning the Assembly said yes to 100 per cent, they are entitled to do that, but it is just not so.

Mr Quinlan is defeated by his own logic. He said, "What fool would say the city is not working at 75 per cent?" It must be he and Mr Corbell, because they now want to move to 100 per cent. What fool indeed, Mr Quinlan?

Mr Corbell was stung into activity by this bill. Mr Corbell said that this is so important that we have to get it right. He says the we have a better system. But he did nothing about it. He was smug and complacent because he believed he had a 100 per cent change of use charge coming. I would hazard a guess that had I not introduced this bill we would

not have heard anything from Mr Corbell and the Labor Party, who were happy, smug and complacent about 100 per cent coming.

All we get from Mr Corbell is tinkering at the edges of planning. There is no leadership or clear direction from the Labor Party. Mr Corbell started by saying, "Where is the incentive?" That is a good question. Where is the incentive from Labor? Where is the incentive they have put forward since we had the debate four months ago or more? Where is the incentive in what we have heard from Labor in the last 2½ years about what they would do in planning? We have heard nothing. There is no incentive. It is only the actions of the government that have stung Labor's spokesman on planning into action.

In the last four months there has been a tremendous debate in this city on the sort of city we want to build. It started in May, when I announced that the overwhelming criteria for planning in this city were now high quality and sustainability. There was not a word from Mr Corbell, except to say, "Why did they not think of that before?" That is a cutting retort, isn't it?

You did not announce it, Mr Corbell. You had no idea. You said, "We should go to 100 per cent. How dare the government come in here and say that we should stay at 75 per cent." While you have been doing nothing but tinkering at the edges, we have been out there consulting, as I said we would. After four months of consultation, I will be announcing soon the outcome of that consultation.

It would have been delightful for you to have participated, Mr Corbell, because we could have had a very meaningful debate. We have had a meaningful debate but in the absence of Labor leadership on the issue. We saw the hollow men of the Labor Party and their leadership earlier this evening. That is all you can expect from them. Labor failed to join in this debate. They have failed to show policy and failed to show leadership.

Earlier this year Amory Lovins from the Rocky Mountains Institute was in town and gave an interesting presentation at the Lakeside. Ms Tucker was there. I acknowledge her interest in this. Mr Lovins spoke of a concept of feebate, rewarding those who do the right thing, by making it easier for them. I have said on several occasions since May that this is the path the government will take.

Mr Corbell says that he has been to the PCO and has amendments coming. He has done that because he has been stung by what the government is doing. It is not leadership; it is reaction. That is all they do over there. They are conservative in their approach, and they are reactionary in their attitude.

Mr Corbell said that he would have rebates for special cases, as if such rebates were something new. Mr Corbell said that Labor had a plan. We are already doing that. There was no acknowledgment that we have already used this technique on several occasions. We have used it for local centre revitalisation and for the Civic revitalisation.

I have announced that when we close down the Civic rebates we will look specifically at a policy for those areas to the west of Civic that still need some work done. As Mr Moore said, we are having discussions for a similar system for aged care. So it goes on. This is a government that is doing it. I guess the acknowledgment from Mr Corbell

that they will follow the path that this government has already taken makes it quite clear that we are getting it right.

Mr Corbell accused me of causing more disruption with more change. He assumed he was going to get 100 per cent, because the Assembly did not want 50 per cent. If we leave it at 75 per cent, is that more change? No, it is not. Who is causing the change now? Who is causing the grief here? Labor and their conservatives are. They are the archconservatives of this place, which is a shame. We could have had a meaningful debate on planning.

Mr Corbell: The only person in this place who is shameful is you.

MR SMYTH: He is stung. Here we go with the little quips. Simon is tinkering at the edges again. Mr Corbell wants to put the change of use charge up. He wants to change it again. He is causing the change here. We need to put to rest some myths that those opposite try to perpetuate as they try to build their case for saying they have got it right. There is a leadership void in the Labor Party. They have no policy on planning. They have not engaged in the debate that has been going on across this community for the last four or five months. Labor is only ever stung into activity by what this government does.

Although 100 per cent betterment was introduced as early as 22 February 1990, it has to be noted that there was never a period during which 100 per cent betterment was collected from the majority of lease variations. Under the system introduced in 1990 in the city area leases regulation, betterment was charged at 100 per cent for lease variations where the lease was less than five years old. There are not too many leases that are redeveloped within five years of them being granted. The rate then declined on a 20-year sliding scale, and after 20 years a flat rate applied. The rate after 20 years for full-charge grants was 50 per cent of added value. The rate was higher for concessional and free-of-charge leases. Let us put to rest the claim that we have had 100 per cent. Most full-charge lease variations were assessed at 50 per cent, because redevelopment tends to be on those leases that are ageing.

The system introduced in 1990 continued after the land act was introduced in 1992 and, with a few changes, remained similar, although not entirely the same, until 21 November 1994. Following the Lansdown review of residential development, the rules changed. The usual remission rate of 100 per cent still applied, but the rate was constant at 100 per cent for all dual occupancy development if the dual occupancy was a unit title, as most are.

Professor Nichols, at page 44 of his report, says:

> An inspection of the graph of the quarterly total revenue indicates that there was a significant decline from the second to the third quarter in 1995. This decline is also reflected in the quarterly revenue received in the case of residential and commercial leases. While CUC revenue from commercial leases recovered during the period 1996/98 this has not been the case for revenue from residential leases.

We believe it is appropriate to give incentive for appropriate redevelopment. Since the debate in May we have said that we need to work out where we are going and how we get there. The Liberal government, the development industry, the building industry and community groups have been actively engaged in that debate. Who has not? The Labor

Party has been absent, and is absent yet again. The Labor spokesman on planning, Mr Corbell, is always missing at the vital times. He is too busy tinkering at the edges. He is over there now. That is very pleasing. He has moved up to talk to Mr Stanhope.

Mr Corbell: I take a point of order, Mr Deputy Speaker. The minister is implying that I have not been here for this debate. As the minister well knows, I have been here for the entirety of this debate.

MR DEPUTY SPEAKER: There is no point of order.

MR SMYTH: I did acknowledge that I had missed his move up to join Mr Stanhope.

MR DEPUTY SPEAKER: Let us get on with the debate.

MR SMYTH: We should remove the sunset clause, leave the rate at 75 per cent and debate the future of planning. This government is leading the debate, with the industry and the community heavily involved. It is a debate we need to have. It is a debate this government is sponsoring. It is a debate that this government will deliver some results on shortly, as I said we would. When we finish our consultation, I will tell the community and this place how we will make Canberra a city of high-quality design and how we will make it a sustainable and a more livable place. This government will do that. The Labor Party cannot do that. I commend the bill to the house.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR CORBELL (10.11): Mr Deputy Speaker, I ask for leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR CORBELL: I move:

> No 1—
> Clause 4, page 2, line 3, omit the clause, substitute the following clause:
> "**4. New change of use charge formula**
> Section 184B is amended by omitting from subsection (1) and (2) '30 September 2000', and substituting '31 January 2001'.".
>
> No 2—
> Clause 6, page 2, line 3, omit the clause, substitute the following clause:
> "**6. New change of use charge formula**
> Section 187B is amended by omitting from subsection (1) and (2) '30 September 2000', and substituting '31 January 2001'.".

These amendments give force to the proposal I outlined to members earlier. They ensure that the sunset provisions for 75 per cent change of use charge remain in the act, whereas the minister's proposal is to delete them. They also change the date for the sunset clause from 30 September this year to 31 January next year.

The Labor Party believes that the base rate for change of use charge should be 100 per cent. We are not prepared to see the base rate become permanently fixed at 75 per cent, which would be the effect of the minister's bill. My amendments allow 75 per cent to be a temporary level for another three months or so. Well before the end of that period, this Assembly will have had the opportunity to discuss how we can target remission of change of use charge. Unlike the government, we do not believe that you should allow remission of change of use charge open slather. Whoever is doing a redevelopment that involves a change of lease purpose would get a 25 per cent remission under the government's position. It is not targeted. It does not encourage good development over bad development. It does not encourage development in particular areas over others. It says that whoever is doing redevelopment that involves a change of lease purpose gets a 25 per cent discount.

That is not what the Labor Party believes. The Labor Party believes that you can get a remission in specific circumstances. Those specific circumstances should be determined by this place, and we should put into legislation the mechanisms to achieve that in a more detailed and specific way than exists at the moment.

I notice that the minister smiles. He thinks everything is going comfortably. He thinks he is in control of the planning debate in the ACT. If you talk to people in the community about planning, they all think the minister for planning is an absolute joke. He is the only minister for planning who allows the Department of Treasury and Infrastructure to do land planning studies. He allows another minister to do planning work, when in fact it should be done by his department. He is the only minister who cuts funding to planning authorities. He is the only minister who uses his call-in power willy-nilly. He is the only minister who attempts to gag community advisory bodies, LAPACs, when it comes to planning matters. He is the only minister who has had six of his major proposals rejected

in this place. The minister can stand up in the in-principle debate and make every accusation he likes, but his record and the perception in the broader community are much different.

These amendments are intended to ensure that the sunset clause remains only until the end of January next year. By that time, we will have resolved, I think once and for all, how change of use charge should work. I extend an offer to the government. I am prepared to sit down with the minister and work through how a good remissions regime should work. That is in marked contrast to the approach the government has taken on change of use charge all the way along.

There is an opportunity here to resolve this issue, to take this issue out of debate in this place. But it means that those on the other side have to accept that leasehold is here to stay and that there will be a return to the community through change of use charge. It is incumbent upon us on this side to recognise that there are circumstances where remission is appropriate. We are prepared to say that. Are the other side prepared to say that leasehold should stay? Are the other side prepared to say they believe that the community should get a return on its land? This is a positive approach from the Labor Party.

Mr Humphries: You did not say that six months ago when you had the numbers. It was a different story six months ago.

MR CORBELL: I should say in response to Mr Humphries that the minister had since early this year to come forward with an alternative proposal after his last proposal was defeated by this place, and he left it until the last sitting period before the sunset clause takes effect to bring his bill in. This is from the government that talks about certainty. This is from the government that talks about not changing the rules every five minutes. They brought this in at the last minute, making it quite difficult for anyone to substantially alter it. There simply was not time.

Mr Smyth: There was not time!

MR CORBELL: Minister, when did you introduce the bill? You introduced it on Tuesday of last week. In this Assembly it is a normal courtesy that you do not debate a bill in a substantive way in the same sitting period as it is introduced, but that is what you have done. Then you say that there has been plenty of time. That is an absolute nonsense.

If you had any sense of showing this place courtesy, you would have introduced the bill in the sitting period previous to this one, and there would have been an opportunity for members to properly examine the bill, to work out ways of amending it if they felt that was appropriate and then to debate it in this sitting period. It is unfortunate that you have not allowed that to be done.

The Labor Party is suggesting a sensible way through this and, as usual, you are going to attempt to bulldoze your way through. I ask members to support these amendments.

MR SMYTH (Minister for Urban Services) (10.20): Mr Corbell berates the government about courtesy. He says, "You brought this bill in and you want to race it through. You do not show anybody any courtesy." Let us look at Labor's record on courtesy. Labor considers that dropping nine pages of amendments on the table 15 or 20 minutes before the debate on the Crimes (Forensic Procedures) Bill is courtesy. But here is the rub. When were they printed? They were printed yesterday morning. That is courtesy Labor Party style. It is okay for them to do this but we cannot. That is the attitude Mr Corbell shows every time he speaks in this place. It is deplorable.

Mr Corbell says, "There has not been time for me in the last four months to develop a planning policy for the Labor Party. There has not been time for me to get to the PCO to get my amendments ready. There has not been time to ring the minister. I now make the minister a kind offer. I will ring him one day and we will talk about planning. But there has not been time in the last four months." Amazing! Mr Corbell has been missing in action on the planning debate.

Mr Corbell: You have to be joking. It took you four months to draft two pages. What a joke! You are an absolute joke, Brendan Smyth.

MR SMYTH: Simon Corbell says he has been talking to the community. There have been an awful lot of public forums in the last four months.

Mr Corbell: It took you four months to draft two pages. What an absolute joke you are!

Mr Stefaniak: I take a point of order, Mr Deputy Speaker. I cannot hear the minister. Shut him up, will you?

MR DEPUTY SPEAKER: Mr Corbell, order!

Mr Corbell: Is the minister seriously claiming it took him four months to draft two pages? What a nonsense!

MR DEPUTY SPEAKER: Mr Smyth has the floor. Mr Corbell, you have had your say.

MR SMYTH: Mr Deputy Speaker, the level of interjection and the low quality of rhetoric are directly proportionate to the level of the embarrassment. I would be embarrassed too if I had made the statements Mr Corbell has made. He said that there had not been time. He said, "The nonsense is that you have not done any work." The nonsense is that you have not done any work. Mr Corbell says that the planning minister is a joke in the community. He has not been at any of the community consultation I have been to recently. At well-advertised public forums we have had spirited argument about where we should take the planning of this city.

Where was Simon Corbell? He was missing in action. He was off tinkering at the side, complacent and smug in the thought that he had 100 per cent coming at last. But when he is stung into activity because our policies look like being fulfilled, he suddenly comes up with this notion that he is going to come back to us shortly with amendments. If it is so important, why have we waited and why are the amendments not ready now? You have been stung into activity. Simon Corbell, potential planning minister, has been missing in action.

We do not support these amendments. We believe that certainty will come from removal of the sunset clause, leaving change of use charge at 75 per cent. If we want to continue the planning debate—which we should, because planning, the needs of the city, technology and what people want evolve over time—then we should do that.

Mr Corbell accuses us of creating uncertainty because we want to leave change of use charge where it is. They want to change it to something it has never been. Think of the logic of that, Mr Deputy Speaker. The government opposes the amendments.

MR QUINLAN (10.22): Mr Smyth has just delivered the same old speech. I have to tell the house that a young man quite close to me calls Mr Smyth Canberra's own Dan Quayle. Every day I am in this place and watch him posturing and making the same speech, I have to admire that young man for his perceptiveness and wisdom.

The sense of Mr Corbell's amendments is self-evident. If there is still debate and discussion on this matter, then is seems commonsense that the amendments be adopted.

MR CORBELL (10.23): There are seven clauses in this bill. The most important point is the end note. What does the end note say? It says:

> Republished as in force on 30 May 2000.

The act was last amended on 30 May 2000. I do not recall the exact date, but that is around the time the Assembly voted to reject Mr Smyth's proposal for 50 per cent change in use charge. On my calculation, the minister wrote two clauses a month. The minister talks about there not being enough time. Thank God we gave the minister some time. Otherwise, the bill would not be completely drafted yet. It is quite nonsensical.

The minister talks about me being missing in action. The minister, of course, only goes to those events where he is nicely cuddled and cosseted by all of his public servants. The minister only goes to those events where he is managing the agenda. That is the only way he can look good. That is the only way he can present his policies in a positive light.

You do not see the minister at those meeting in the community where people are angry about planning proposals. Why don't you not see him there? He could not hack it. He could not cope without his coterie of officials and advisers around him. That is the reality of this minister for planning. If this minister for planning wants to get personal about how planning is debated in this city, I am quite happy to engage in that debate. Planning is much too important to be left to people like Brendan Smyth. It is about public policy. It is about engaging people in democratic decision-making about their city. It is about protecting the public interest, and it is about building not only a sustainable city of good economic and environmental design but also a more equitable city. None of those things are being dealt with in a substantive manner by this minister. I would urge members to support the amendments.

Question put:

That the amendments (**Mr Corbell's**) be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Amendments agreed to.

Bill, as a whole, as amended agreed to.

Bill, as amended, agreed to.

CRIMES (FORENSIC PROCEDURES) BILL 2000

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

That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.29): This bill is based on a model forensic procedures bill. The Commonwealth Attorney-General's Department, which coordinates these matters, has advised my office that New South Wales and Victoria have implemented legislation based on the model, that the Commonwealth, the ACT and South Australia are about to do so, and that other states are well advanced in their drafting of complementary legislation.

New South Wales has introduced a bill for an act, as has the ACT, but Victoria has amended its existing Crimes Act. This approach by Victoria has necessitated not strictly following the model code, although the principles have been adhered to with additional safeguards; for example, intimate samples may only be taken by a medical practitioner or nurse of the same sex as the person giving the sample.

Before I go into some of the details in relation to the issues in this bill I should say, to ensure that the record is quite clear, that the ALP support this bill in principle. We do believe that the DNA technology which has been developed and which is now available to the police and useable is an invaluable tool in relation to the detection of criminal

activity and therefore in the prevention of crime. The Labor Party supports the bill, supports the introduction of DNA technology, and supports the application of the DNA technology as a major plank in the armoury of our police.

However, a number of issues in relation to the application of DNA technology as a crime-fighting tool really do deserve debate and I would like to address some of the issues that we think are raised by this piece of legislation. As I said, the Labor Party is pleased to support this legislation in principle and will be doing so, but I propose to move a number of amendments at the appropriate time.

In any discussion about the application of DNA technology and the collection of DNA samples for inclusion particularly in a database, a number of significant issues have to be addressed. One of those issues is the question of the range of people from whom the police should collect samples in the first instance. Who is it that we should be testing under legislation such as this for the purpose of maintaining a database?

In terms of making the most effective use of the technology and balancing the range of circumstances that apply to the maintenance of a database of information of this sort that identifies a person, what are the most effective procedures and what safeguards should we as a community place around the collection of this sort of material? That goes very much to the part of the debate that has been generated, that is, what class of offender, suspect or convicted criminal should be subjected to the collection of samples?

The bill that the Attorney-General has introduced contains a number of categories or a number of circumstances in which samples may be collected. Under part 2.3, starting at clause 19, samples can be collected with the consent of the suspect, but the police officer must be satisfied of certain things under clause 23, including the fact that the offence is a serious one. Under part 2.4, a sample can be collected by order of a police officer if consent is refused. Under part 2.5, a sample can be collected by order of a magistrate. Under part 2.7, a sample can be collected after conviction for a serious offence. Under part 2.8, a sample can be collected from a volunteer. Under clause 83, a forensic procedure may be carried out on a child or an incapable person by order of a court.

We need to look at the classification of offender covered by each of those parts or each of the range of circumstances. The legislation is constructed around a number of definitions: the definition of "suspect" in clause 8, the definition of "volunteers" in clause 10 and the definition of "serious offender" in clause 9. The definitions of "suspect" and "serious offender" are particularly important in determining the range of suspects or the range of people potentially affected by this legislation. The definition of "suspect" is:

(a) a person suspected by a police officer, on reasonable grounds, to have committed an offence;
(b) a person charged with an offence;
(c) a person who has been summonsed to appear before a court for an offence;
(d) a person who has entered into a voluntary agreement to attend court...for an offence.

A serious offence is defined as:

(a)

(b)
(c) an indictable offence against Territory law; or
(d) an offence against the law of another participating jurisdiction punishable by imprisonment for life or a maximum penalty of 2 or more years of imprisonment.

A serious offender is defined as a person who is convicted of a serious offence.

It is worth looking at section 33D of the Interpretation Act to get a definition of an indictable offence to make clear what a serious offence is and what a serious offender is. As I said, under section 9 a serious offence is an indictable offence against the territory. An indictable offence is defined in the Interpretation Act as an offence under any act that is punishable by imprisonment for a period exceeding one year.

The Attorney and I have crossed swords in the media over the last couple of weeks on this issue. The Attorney has insisted for some time that this legislation applies only to people convicted of a serious offence, that is, an offence punishable by imprisonment for more than two years. However, I saw the Attorney refer yesterday on television to the definition of an indictable offence and I did think that he reduced it to one year, consistent with the interpretation. But a serious offence is, indeed, an indictable offence and an indictable offence is, indeed, an offence punishable by imprisonment for a period exceeding one year.

Mr Humphries: That is right, yes; so what is your point?

MR STANHOPE: I have not done an exhaustive check—perhaps the Attorney has—but the point is that unless there are absolutely no offences in any law of the territory that carry a term of imprisonment of one year, then a serious offence is, in fact, an offence carrying a term of imprisonment of more than one year.

Mr Humphries: At least one year means more than one year.

MR STANHOPE: If it is for a period exceeding one year, it is an indictable offence.

Mr Humphries: Exceeding one year; that is right. Therefore, it is at least two years.

MR STANHOPE: That is not necessarily the case.

Mr Humphries: It is.

MR STANHOPE: Perhaps the Attorney can confirm for me that there is not a single indictable offence in the ACT that carries a term of imprisonment of under two years.

Mr Humphries: I can tell you that. That is the case.

MR STANHOPE: I am pleased to hear that. I was under a misapprehension, then. It might have been advisable, Attorney, for your language to reflect the definition of an indictable offence.

Mr Humphries: It is not my language; it is the language of the drafter.

MR STANHOPE: It is not the language of the Interpretation Act, which refers to an indictable offence in terms of one year of imprisonment. But I take the point and I am reassured that the Attorney can guarantee to me that there is no such indictable offence. That is an issue that has been cleared up for me and I am grateful to the Attorney for that. The Attorney has clarified for me a point which was causing me some concern. Perhaps some small concern that I have expressed has now quite simply been allayed.

The other issue, though, is the circumstances under which samples will be taken in relation to this range of people and exactly who is included within this range of people. Perhaps the Attorney can explain something to me. There is one point on which I am confused, Attorney. It is another issue on which you and I have crossed swords metaphorically. I think that in relation to this sort of legislation one should always look at the extreme circumstances. There is the old adage that we must always look at the person who will be affected in such extreme circumstances. I have heard the Attorney say a number of times that it is simply not possible under this legislation for anybody other than a serious offender to be tested.

Mr Humphries: That is right.

MR STANHOPE: The difficulty I have with that claim of the Attorney is my interpretation of the situation. Again, if the Attorney can clear up this matter for me, he will have gone some way to allaying another major concern of mine. The provisions that limit the circumstances in which a police officer or a court may take a sample in respect of clauses 23, 29 and 34 are matters to be considered before a sample is taken. I agree with the Attorney that clauses 23 and 34 do restrict the taking of samples to a serious offender, but I cannot understand why it is that in subparagraphs (1)(b)(ii) and (iii) of clause 29 the reference is only to an offence.

Perhaps it is in relation to this provision that some of my paranoia has sprung, that is, I would have thought that clauses 23 and 34 should have been in the same form as clause 29 if all of these circumstances were to relate just to serious offenders. It was in relation to this provision that I made certain claims about my belief that this legislation did extend in some circumstances, perhaps extreme, to somebody who satisfied the definition of "suspect". You will need to argue very hard to convince me that the absence of the word "offence" in subparagraphs (1)(b)(ii) and (iii) of clause 29—

Mr Humphries: The word "offence" is there.

MR STANHOPE: The word "offence" is, but the words "serious offence" are not, and under any rule of statutory interpretation—

Mr Humphries: It is four lines above.

MR STANHOPE: It is, certainly; so why is it not in subparagraphs (1)(b)(ii) and (iii) of clause 29 if it is in subparagraphs (1)(b)(ii) and (iii) of clause 23 and subparagraphs (1)(b)(ii) and (iii) of clause 34? There must be a reason. The draftsman has to have a reason for excluding the word "serious" and the reason must be that there was a determination that in those circumstances, perhaps reasonably limited, a police officer could take a non-intimate sample from a suspect. That is what it means. That is the clear

reading of that provision and there is no other interpretation, but that in that particular circumstance—

Mr Humphries: "Suspect is a serious offence."

MR STANHOPE: No, that is not what subparagraphs (1)(b)(ii) and (iii) of clause 29 say.

Mr Humphries: But it is what 29(1)(b) says.

MR STANHOPE: It is what subparagraph (1)(b)(i) of clause 29 says. After subparagraph (1)(b)(i) of clause 29 the word is "or", not "and". The Attorney would know that when the word "or" is used to separate subparagraphs, there is a separate circumstance. That is the truth. Either you had some intention to include "suspect" within subclause (1)(b) of clause 29 or it is a drafting error. It is one or the other, but your interpretation is not correct and cannot be correct.

To the extent that I am concerned about the scope and reach of this legislation, its potential application to suspects other than serious offenders, it comes down to what is the meaning of that clause. The meaning of subparagraphs (1)(b)(ii) and (iii) of clause 29 is that in a certain circumstance, perhaps extreme but nevertheless specifically provided for in the legislation, anybody who commits an offence of any sort in the ACT can be subjected to a compulsory test. That is what it means.

The Attorney might be able to insist that it is simply a mistake, and maybe it is. It seems so unusual to me, but perhaps it is simply a drafting mistake. But I was entitled from my perspective, perhaps through a touch of paranoia about this vigorously driven law and order government, to assume that it was seeking through this mechanism to include within the net of people who can be tested a far wider range than the Attorney had admitted.

That issue has led to a number of my amendments. I am seeking to put beyond doubt the Attorney's claim that only people suspected of a serious offence can be tested. It seems to me, in terms of the Attorney's rhetoric and our position, that we have the same attitude to this legislation; it is just that I do not think that the legislation delivers what the Attorney claims it to deliver. We agree on the outcome we want, but I do not think that this legislation delivers it. We believe that only serious offenders should be tested.

The Labor Party does depart from the Liberal Party's approach to this issue on a couple of issues. One of them is in relation to the categorising of a buccal swab as a non-intimate procedure. We think that the taking of a mouth swab or buccal swab, particularly where consent is not granted, should not carry the tag of non-intimate. That is the attitude we have to that. In its invasion of a body cavity, I think that it is a significant invasion of the person. For those people who consent, as we saw Mr Humphries and Mr Rugendyke demonstrating, it is not a particularly onerous obligation or task. But in those circumstances where somebody, for whatever reason, decides not to consent, there are quite serious implications.

It is invasive. It is an invasion of the body. I think that it is an intimate procedure and it should fall within the category of intimate procedures that are defined. I simply do not understand why the taking of a swab from the mouth cannot be included within the definition of intimate. It seems to me not to make any particularly great difference to the legislation and it is an attitude recommended by the model code. It was the model code position and it is a position that has been adopted in some other jurisdictions. So we will be moving an amendment seeking to move the taking of a buccal swab from the definition of "non-intimate" to the definition of "intimate".

An issue on which we disagree with the government's approach and endorse the approach adopted in Victoria is the circumstances in which an offender, a suspect or a victim of a crime will be advised of the results of a forensic analysis of a sample. We believe that there are significant issues here concerning the standard doctor/client relationship. We think that the issues surrounding that do need serious consideration. We have tremendous sympathy for the victims, particularly where there has been an exchange of blood or violence or where there is a sexual crime and there is great concern about the transmission of diseases.

There is a very significant need to balance the rights of all of those people to know the truth about an analysis of a sample that is taken as a result of a forensic procedure and the basic right to privacy of those people. It is an issue where we do need to balance the rights of the non-convicted individual and the victim. Certainly, if there is any danger to a person, the person should be advised, particularly the victim should be advised. A methodology should be adopted in relation to that and we are suggesting that it should be the Victorian classification that a result should be released to the alleged offender or to the victim only in circumstances of imminent risk to the life or the wellbeing of the offender, the victim or the person.

It is a sensitive issue. For instance, if a sample disclosed that a person was HIV positive, there is a whole range of protocols around how a person should be advised of the fact that, as a result of the taking of a sample, a forensic analysis has revealed that they are suffering either some genetic condition or a disease of some sort, whether fatal or otherwise. That does involve the need for us to be conscious of the protocols around that. *(Extension of time granted)* We are suggesting that the formulation in the Victorian legislation be adopted, that that information be disclosed in circumstances of imminent risk to the life or wellbeing of the offender or the victim.

A range of other issues should be considered and have been considered by us. Some of my amendments relate to those issues. They go to matters such as safeguards against general roundups of persons convicted of serious offences in the past for testing and inclusion on the database; safeguards against general calls for volunteers and the extreme moral pressure that might be put on reluctant persons; safeguards against the proliferation of information being exchanged by law enforcement agencies and recorded on unknown databases; and safeguards to ensure that the results of testing under the bill are not used for discriminatory purposes.

They go also to judicial oversighting of the testing of suspects who refuse to consent to the taking of samples; the destruction of samples when a suspect is not charged with an offence; avoidance of any language that might tend to dazzle juries with the certainty of DNA testing "proving" that a person committed an offence; public scrutiny of all

processes involved from the taking of the sample through to the maintenance of the database; whether police officers or other persons may be present when a suspect of the opposite sex is giving samples; and whether some important matters should be left to regulation.

In summary, Mr Speaker, I will be proposing amendments to categorise a buccal swab as an intimate procedure to clear up the uncertainty and concern that I have about whether there are some gaps in the legislation, particularly in clause 29, which would result in the legislation applying in every circumstance, not just to serious offenders. I will also be proposing amendments limiting the disclosure of results for medical purposes to cases where there is an imminent risk to the life or wellbeing of a person, preventing opposite sex persons being present at the taking of intimate samples and ensuring that samples are destroyed when no longer required.

I will be seeking to clarify that the legislation has a purpose clause. I did have some difficulty with the definition in the bill and I will be seeking to clarify that. I have an amendment to clarify what I feel might lead to retrospective operation of the legislation in cases where a person is still under sentence. I am not quite sure from my reading of the legislation whether it does that.

Apart from that, as I said before, the Labor Party supports this legislation. We hope that the police will make good use of the powers that it gives them. We also hope that the government will give the police sufficient resources so that they can attend scenes and take evidence for testing under these new procedures.

MR RUGENDYKE (10.53): Mr Speaker, I also support this legislation. Here we are, on the cusp of two centuries, launching into the new millennium with fabulous, up-to-date, technologically-advanced legislation that I am sure will help police solve many crimes. Hopefully, among the first to be solved will be that of the callous murder of Mrs Palacsics from McKellar.

A debate such as this may have been had many years ago when fingerprinting was discovered and became a new and advanced method of identifying offenders, and here we are with a new tool in the kitbag of police officers for identifying offenders. Let us face it: the intent of this legislation is to identify and lock up offenders, to look after victims and to clear people wrongly implicated. What a fabulous piece of legislation!

I also had concerns around clauses 28, 29 and thereabouts about protections and safeguards for police undertaking the procedures, so I spoke to a former colleague of mine, Senior Constable Mick Chew—he may have been promoted to sergeant, I am not sure, but he is a detective—who had a lot to do with the formulation of this legislation from a policing perspective and he is more than satisfied with it. He is very happy that they were able to learn from mistakes made by other jurisdictions and he is confident that this bill has been put together in an appropriate manner for the collecting of DNA in a reasonable way and in a way that, as I have experienced, is not difficult and not intrusive, no worse that brushing your teeth.

I am pleased to see that there is a degree of compulsion within this legislation. Suspects of serious crimes would not want to be tested, but there is a degree of compulsion so that they can be. I applaud that. It is appropriate legislation giving police appropriate powers

for the purpose of locking up crooks and offenders. It is a great piece of legislation and I applaud it.

Debate interrupted.

SUSPENSION OF STANDING ORDER 76

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

> That standing order 76 be suspended for the remainder of the sitting.

CRIMES (FORENSIC PROCEDURES) BILL 2000

Debate resumed.

MS TUCKER (10.57): The Greens support this bill in principle, but I should first make the point that the word "forensic", in reality, means pertaining to the law and the term in this context, as any forensic scientist would remind you, should be forensic science. Perhaps the meaning of the word is changing simply because of the context in which it has been employed.

In regard to the Crimes (Forensic Procedures) Bill it is very clear that advances in forensic science technology have significantly improved the process of identification. The Greens acknowledge that it is important for the law enforcement agencies to be empowered to take advantage of these developments. However, any substantial change to these identification procedures and associated databases and facilities has civil rights and privacy implications.

Mechanisms which force suspects to provide a DNA sample, combined with the establishment of a national database which is accessible to an extensive and expandable list of law enforcement agencies, may well be open to abuse. There was a recent example in New Zealand of Maori and islander men between 25 and 40 years of age being pressured to volunteer blood samples. At the time, the police were reported as saying that any samples taken would be destroyed. Later indications, however, were that they were not destroyed and may be placed on the DNA database; so it is not quite as simple as Mr Rugendyke has painted it.

Furthermore, various royal commissions have uncovered extensive corruption in the police forces of Australia and this DNA database will have a national and global reach. For example, the Wood royal commission revealed that police medical officers were subject to pressure from investigating officers to corruptly alter evidence, while a 1997 US Justice Department investigation revealed that FBI DNA laboratories had engaged in a systematic distortion of tests results in order to favour the prosecution.

There is also the problem of unreasonable faith in the technology. DNA evidence at a crime might be consistent with innocence, but a jury might be bamboozled by what appears to be incontrovertible evidence that the accused is guilty simply because of the presence of identifiable and possibly coincidental DNA.

There have been numerous instances of cases where people have been acquitted and then police have actively targeted them with a view to charging them again. There may well be a temptation to plant DNA evidence in these circumstances to secure a conviction. Close monitoring of the destruction of DNA samples on acquittal or if charges are dropped will be crucial.

It is apparent that the point at which people may be asked or required to undergo forensic procedures is also crucial. I am most seriously concerned that forensic procedures can be made compulsory, in effect, for suspects of any crime. While the argument is that the police officer must be satisfied on the balance of probabilities that the suspect has committed an indictable offence, such a balance of probabilities is too loose a construction.

I am also opposed to the threshold for such testing being set at the level of an indictable crime. The result may be that anyone suspected, charged or found guilty of an offence with a maximum penalty of more than a year in jail will be ordered to undertake forensic procedures. The level in other jurisdictions is five years or more. It would be reasonable perhaps to adjust the level at which people can be required to undergo forensic procedures to sentences of two years or more for offenders, with a maximum charge of five years for people suspected of or charged with offences, but I am quite aware that what is reasonable is not always possible.

I will be supporting Labor's amendments, which are perhaps more realistic in the context of this Assembly, as confirmed by Mr Rugendyke's speech just then. I would look for a close examination of the implementation and effect of this regime over the next few years and would suggest that there be a review of its operations at some time in the next Assembly. I would not mind getting a response from the members present, not that there are many, to that idea just to get it on the record.

We will be supporting Labor's amendments, although I understand that Mr Humphries has only just received them.

Mr Humphries: What a surprise!

MS TUCKER: What do you mean?

Mr Humphries: You have just seen the amendments and you are going to support them.

MS TUCKER: No, I have had them since this morning. I said that I was sorry to hear that Mr Humphries has only just seen the amendments. We have looked at the amendments carefully all day. I do not like the timing and I am very sympathetic to Mr Humphries' concerns because he has only just received them. I am very sorry that that has happened, because I think that they are good and Mr Humphries is saying that he will probably vote against them because of this bad process. I regret that that is the circumstance in which we are having to deal with the amendments at this time.

Mr Humphries: Can you blame us?

MS TUCKER: No, I have said I am sympathetic. I do not blame Mr Humphries.

MR SPEAKER: Order, please! I do not want a discussion across the chamber.

MS TUCKER: I am supporting Mr Humphries' concerns about Labor not giving the government the amendments earlier and I am saying that I think it is unfortunate that we are in this situation because I think the amendments are quite good.

MR STEFANIAK (Minister for Education) (11.02): Mr Speaker, as someone who practised in the criminal law jurisdiction for about two decades, I think that this bill is a major step forward. As Mr Rugendyke said, at the turn of the last century fingerprinting was introduced. No doubt, that caused a lot of consternation at the time. DNA testing certainly is causing a fair bit of consternation now. I can recall a significant step being taken about 10 years ago which caused some consternation, that is, the recording of police interviews by video or simply by a tape recorder. Interestingly enough, some of the concerns expressed then came from the police.

That led to a number of things. Firstly, at least in the ACT, it showed that virtually all of the allegations in relation to so-called police verbals, where police officers would take down a statement without any electronic means and provide it in court, were largely absolute nonsense. As a result of the recording of those interviews, there was a great increase in the number of pleas of guilty by defendants.

This legislation is terribly important because it proves beyond virtually any doubt, not just beyond a reasonable doubt, that a person is, in fact, guilty or not guilty of an offence. Mr Rugendyke mentioned a particularly heinous crime in the ACT which may have been solved if we had had DNA testing at the time. Indeed, it may well be as a result of the passage of this legislation. The Attorney-General said in his tabling speech that there are over 300 DNA samples from unsolved crime scenes in the ACT which may identify the perpetrators of those offences. He went on to say that some of those unsolved crimes were very serious indeed and that their resolution was an absolute priority, which is why this bill is being brought on.

There are a number of safeguards in this bill; there needs to be in such legislation. When the PCA legislation was brought in there had to be safeguards for blood tests. Indeed, for any blood testing procedure there were safeguards to prove that the sample taken was not interfered with in any way. That will be so with DNA testing.

We have already had a positive result from voluntary DNA testing in the town of Wee Waa, where a 91-year-old lady was viciously assaulted and raped. I am not too sure why the criminal who did it came forward. There is such a thing in criminology as a compulsion to confess. Maybe that was so. However, virtually every male in the town was given a DNA test, including the person who committed the offence, and that led to the crime being solved. I think that is terribly important.

DNA testing is a procedure which does resolve a matter beyond doubt. It will lead to a much fairer system in that the time of courts will not be wasted on spurious pleas of not guilty. Police time will not be wasted. If a suspect obviously has not committed the offence, that person can then be discounted and can go on his way. I think that is terribly important.

DNA testing is a revolutionary procedure. It is something that will clear up a lot of serious crime, not just in the ACT but throughout Australia. It will be a very powerful tool in the armoury of the law enforcement agencies. I think that a vast majority of the citizens of Australia will welcome its introduction. It is something that really will protect the community.

I am not going to talk about the amendments being sought; my colleague the Attorney-General will do that. I would certainly caution the ALP and Ms Tucker to exercise extreme care here. It is important not to water down good, sensible, solid legislation like this which the community certainly wants to see introduced.

I am especially intrigued by the argument about buccal swabs. I will read out a part of the Attorney's tabling speech on that because it is terribly important. He said:

> The Government has decided that it is appropriate to categorise the taking of a buccal swab as a non-intimate forensic procedure and in this way the Government's Bill departs from the Model Bill—

there are very good reasons for that—

> ...a buccal swab is a simple procedure in which cells from the inside of the cheek are collected using a swab similar to a large cotton bud. It is a simple and basically painless procedure which can be performed by the person being tested if that person wishes—none of the person's clothing needs to be removed.

I was hoping that Mr Smyth would be sitting next to me because I was going to demonstrate something, but the method of testing required under this legislation is so simple that even the persons themselves can do it. I have not got an actual swab with me, but I have a roll of paper around a pen which I am now putting in my mouth. There we go; I have just taken a buccal swab. How simple is that? It is totally painless. What on earth is wrong with that?

Mr Humphries: It looks silly, actually.

MR STEFANIAK: It probably looks silly, Mr Humphries, but I am making a point. I will not have to keep this one, so I will throw it away. It was an utterly painless, utterly simple procedure. What was intrusive about that? It is absolute nonsense to say that it is. I think it is time the Labor Party and the Greens got a bit more fair dinkum about law and order.

This legislation is sensible. There are significant safeguards in it. I think that it is rather counterproductive for them to try to water it down. It is a very important crime prevention tool for our police force. It is well and truly welcomed by the vast majority of citizens in Canberra and Australia generally. I welcome it and I look forward to a lot of serious crime being solved as a result of having it. I would expect that a number of people who have not committed the crimes they are suspected of committing will be absolved as a result of this legislation. I commend the Attorney for bringing it in and look forward to its implementation in our territory. We will be living in a safer place as a result.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.09), in reply: I am glad that members around the chamber are prepared to support this legislation. It is difficult to exaggerate the importance of this legislation. It provides a comprehensive legislative framework dealing with the most important breakthrough in crime detection and crime prevention that we have seen in at least 100 years and perhaps that we have ever seen. I think it is easy to defend those statements and not to have to suggest that they are hyperbole in any way.

Mr Speaker, the legislation will facilitate the provision of important powers to the Australian Federal Police as part of a national scheme whereby other Australian police and, potentially, law enforcement authorities in other parts of the world can place on a database information which will assist in identifying a whole host of crimes and criminal activities that technology before this point has not been able to adequately address.

The example that I have given before is that of sexual assault. Criminologists will suggest that sexual assault offenders are people who are most likely to have committed previously relatively minor offences such as burglary and common assault. Mr Speaker, if the DNA of a person who commits a sexual assault is on a database by virtue of an earlier offence having been committed, it is extremely likely that the police will be able to identify quickly who it is that has committed the sexual assault in question because it is extremely difficult to commit a sexual assault without leaving a sample of DNA. It is extremely difficult, Mr Speaker, unless the person attempts to do so in some sort of spacesuit.

Since sexual assaults are generally carefully premeditated crimes, it follows that a person who would consider committing such a crime is likely to be very seriously deterred from taking the step of committing that crime because they know that the likelihood of being detected for that crime amounts to almost a certainty.

Mr Speaker, that kind of impact on crime is not limited merely to the category of sexual offences. A person who, for example, breaks into and enters a home very frequently will spend enough time in that place to leave a DNA sample, whether it be skin scraped off as the person is climbing through a window, saliva on a glass or something the person might pick up in the kitchen or hair that drops from their head. Whatever it might be, Mr Speaker, the chance is there.

How much impact will there be on burglary in this community if it is possible to conduct the tests that will pick up DNA samples of individuals? The potential is enormous. Although the technology may not be applied at that breadth at this point, at least in the early stages of this new technology, it is certainly capable of doing that. That is why none of us should stand in the way of this new technology being applied as soon as possible in this place.

Mr Speaker, I was most distressed to hear Ms Tucker's comments about the abuse of DNA technology. Let me concede at the outset that she is quite right to suggest that technology can be abused. Of course it can. But so can any other crime-fighting tool which is associated with the collection of evidence.

I will give you an example. Before DNA technology came along, there was—hopefully, never in this territory, but apparently in other places—the old trick of offering a suspect a glass of water in the police station and, if the suspect drinks from it, taking the glass away and placing it at a crime scene, picking it up, fingerprinting it and using it to establish evidence that the offender was present at the crime scene.

Presumably that sort of thing could happen also with DNA technology. But that is abuse of the technology which does not for one instant repudiate the use of the technology in an appropriate way. Anything could be used in an illegitimate way, Mr Speaker. A person can stab another person with a knife, but that is not an argument for abolishing knives. The point of the new technology is that it has the benefit of being able not only to inculpate people, but also to exculpate people.

In an article in the *Age* of 1 April of this year—I assume that it was not meant to be a joke—there was extensive discussion about the effect of DNA and the article pointed out:

> The use of DNA has shed new light on corrupt policing and the fabrication of scientific evidence. It has also highlighted the inadequacy of the compensation offered to those who are wrongly imprisoned. In California, 99 prisoners have been freed in recent weeks after DNA evidence helped expose a police corruption racket that manufactured prosecutions to inflate conviction statistics. Governor Ryan of Illinois, a Republican and death penalty supporter, declared a moratorium on executions in January after 13 death row inmates were cleared of their crimes. In Louisiana, Clyde Charles was released in January after DNA evidence cleared him of a trumped-up rape charge that had kept him in gaol for 19 years.

I understand also that in the United States there have been a number of cases of people who were committed to death row being exonerated by the use of DNA evidence, unfortunately in the case of some of them after they had already been executed by the state.

Mr Speaker, this is not just about putting people in the frame. It is also about taking people out of the frame. The point is that it can be abused, but that is a matter for the courts. If a policeman fronts a court and says, "Yes, I found this sample of skin at the scene of the murder," the court has the option of believing or not believing that policeman's evidence, just as at the present time before DNA technology becomes widespread the court is free to believe or not believe a policeman who says, "Yes, I found this glass at the murder scene with the defendant's fingerprints on it." The fact that abuse is possible is no argument against the technology. I have to say, quite apart from anything else, that Ms Tucker's use of that analogy in the context of the ACT, which has a police force which has been remarkably free of that kind of misuse of power, was a fairly unfortunate reference on her part.

Mr Speaker, I want to turn now to what Mr Stanhope has described as the crossing of swords by him and me over the last few days. We have had some disgraceful allegations and suggestions made by the ACT opposition in the course of this debate. We had the comments yesterday on the ABC about girl guides being held down by burly policemen while sampling tools were thrust into their mouths, comments which frankly are unsupportable on close consideration of the legislation. As Mr Stanhope now realises, I hope, the legislation does not apply—

Mr Stanhope: Give me your legal opinion on 29(1)(b)(ii).

MR SPEAKER: Order! I do not want a cross-chamber debate.

MR HUMPHRIES: I will give Mr Stanhope a legal opinion on the use of the word "child". "Child" means a person under the age of 18.

Mr Stanhope: No, just give me an opinion on 29(1)(b)(ii).

MR HUMPHRIES: I know that you want to move off that issue about the child quickly and onto some other issue, but you said that the girl guides could be subject to this provision and you knew—at least you know now—that that was not possible because the provision does not apply to a child under the age of 18. You have not had the goodness to come into this place and admit that fact. You are always talking about people being Gary-ed. You should be prepared to come into this place and admit not just to this place but to the ABC listeners of yesterday morning that you made a serious error.

Mr Speaker, I want to contrast what Mr Stanhope has said tonight in this debate with what he has said previously. He has said tonight, "The Attorney and I have crossed swords," and "I would be grateful to hear the Attorney's explanation of that," and "I am much reassured to hear the Attorney make these statements." He made those statements in the Assembly today, but yesterday he was making statements such as: "I am concerned too that the Attorney continues to mislead the public about the breadth of this bill," and "The Attorney obviously has not looked at clause 8 or, if he has looked at clause 8, he is deliberately misleading the people of Canberra about the scope of this legislation," et cetera, et cetera in that tone.

Yesterday on television he was saying, "The Attorney does not understand his own legislation on the issue of indictable offences." Tonight, across the floor of this chamber, I explained to Mr Stanhope his error in that matter, an error which incidentally was explained previously to his advisers in briefings by my department—

Mr Stanhope: There's a Gary.

MR HUMPHRIES: I am sorry, it was. If you do not believe me, Mr Stanhope, get the officer concerned to come along and talk to you and see what she says. He says tonight on the floor of the chamber that he is grateful to be enlightened, but yesterday it was not a question of: "We could be at odds about this, so I need to find out more." It was: "The Attorney is wrong. The Attorney has not done his research. The Attorney is mistaken. The Attorney is misleading the public."

The Attorney has read the legislation. The Attorney knows that it does not apply to girl guides. It does apply to indictable offences and a simple reading by a competent lawyer would disclose the same facts. What Mr Stanhope has done in this debate has been to egregiously mislead the public with scare tactics and he does not have the decency to come into this place and say, "I might have been wrong about that girl guide bit. I might just have been wrong about that."

Yet he has the nerve to move, as his party has done several times in the last few years, motions of censure and no confidence in ministers on this side of the chamber because they have supposedly used misleading words in certain debates. If you ask me, Mr Speaker, that is pretty gross hypocrisy.

I am going to support this legislation tonight proudly and in the knowledge that it is going to produce a dramatic effect on the solving and the preventing of crime in this community. I hope everybody in this community realises how important it is that we pass this legislation with its full scope preserved intact.

Mr Speaker, I do not intend to support any of Labor's amendments because of the insincerity with which they are going to be moved in this place tonight. Mr Stanhope has had these amendments since approximately 11 o'clock yesterday morning and he tabled the amendments about 20 minutes before this debate began at about half past 10 this evening and expects to be taken seriously on these matters.

Mr Speaker, that is called proceeding by way of ambush and members should not reward that tactic in this place by deigning to offer support for amendments of that kind. Ms Tucker has been privileged to see the amendments before this evening. Apparently some members are worth showing the amendments to and others are not. I think we should reject the tawdry, cheap tactic Labor has adopted by rejecting the amendment en masse. If any of them are worth picking up, they can be dealt with later in a government miscellaneous bill or another bill of Mr Stanhope's choosing. But this bill is important. It should be passed and I commend it to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

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

Clauses 6 and 7, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (11.25): I am grateful for the Attorney's acknowledgment that the government did make a mistake in subparagraph (1)(b)(ii) of clause 29, that he was wrong, that under subparagraphs (1)(b)(ii) and (iii) of clause 29—I do not know whether it was deliberate or just a drafting mistake—

Mr Humphries: Mr Speaker, I take a point of order. I thought you were referring to clauses 6 and 7 of this bill, not clause 29.

MR SPEAKER: That is correct. I uphold the point put forward by the Attorney.

MR STANHOPE: The Attorney is a bit sensitive. I will deal with that when we get to it, then.

MR SPEAKER: Would you like to have leave to move amendments 1 and 2 together?

MR STANHOPE: I would, thank you, Mr Speaker.

Leave granted.

MR STANHOPE: I move:

> No 1—
> Clause 6, page 4, line 4, after paragraph (e), insert the following new paragraph:
> "(ea) the taking of a sample of saliva or a sample by buccal swab;".
>
> No 2—
> Clause 7, page 4, line 19, paragraph (4), omit the paragraph.

Mr Speaker, I had discussed during the debate in principle the range of amendments which the Labor Party would be moving. These amendments go to the issue that I spoke of before, namely, the Labor Party's view that the taking of a buccal or mouth swab is an intimate procedure and does involve an invasive procedure—entry to one of the body's cavities. I take the point that Mr Stefaniak makes that, if the suspect or alleged offender consents to the procedure, there is absolutely no issue. But there is an issue in relation to those people who, for whatever reason, do not consent.

Mr Stefaniak: I did not say that.

MR STANHOPE: I hope that I have not misstated your position, Mr Stefaniak. I thought you were agreeing that in those circumstances where an alleged offender or a suspect consents to a buccal swab they are really—

Mr Stefaniak: Consent to doing it themselves, Jon, which they can do, rather than having someone do it for them.

MR STANHOPE: That is what I mean. I am agreeing that it is not an issue.

Mr Stefaniak: But I think it is quite important that people do have that done to them even if they do not consent.

MR STANHOPE: But then again, there is the other circumstance which you did not discuss, Mr Stefaniak, of when they do not consent to the swab or to the giving of a sample, and the circumstances change dramatically.

The circumstances change dramatically when a person, for whatever reason, does not consent and force is required. The legislation enables the police to use whatever force they reasonably need to use to take the sample and the whole scenario changes quite dramatically. We then have the scenario of the person being forced onto a bench, forced up against a wall or put in an arm lock. The circumstance then is that the person's mouth must be forced open. Mr Rugendyke indicated earlier that he had had discussions about the level of training. He was concerned about the police, and quite rightly so. That is a concern that would arise in relation to the taking of a sample from a non-consenting suspect.

I mention those things to create a different picture, a different scenario. In those circumstances, we are dealing with very different issues—the responsibility of the authorities in relation to the undertaking of an intrusive, invasive procedure in circumstances where a person is resisting, is not consenting. The Labor Party is saying that that procedure should be undertaken only with the authority of a magistrate. We are suggesting that, as other jurisdictions have done and as the model code provided, in those circumstances where it is desired to take a swab from a non-consenting offender—a swab from the mouth or a swab from one of the body's cavities—only a magistrate should order the taking of that sample.

That is what is provided by the model code on which this legislation is based. That is what that code provided. It is what other states have provided. I cannot see how it affects the operation of this legislation and I cannot see how it affects the integrity of this legislation for the authority for that procedure to be transferred from a senior police officer to a magistrate. I think it is an appropriate change to procedures. If a person is to be forcibly restrained, if their mouth is to be forcibly opened and a swab taken from their cheek, I think that should be on the basis of an order from a magistrate. That is what the Labor Party is saying.

Mr Stefaniak: Why would a reasonable person refuse, though?

MR STANHOPE: That really does reflect an incredibly blinkered view of the world and of life, Mr Stefaniak. The world is made up of a range of very complex people. I know that a significant number of people, particularly people with mental disabilities of one sort or another, such as schizophrenia, who come into constant contact with the police react very negatively to the police in so many circumstances because of their life experiences.

I have received representations on that from the parents of, particularly, schizophrenics or people with a double diagnosis and they refer all the time to the particularly bad relationships which their children have with the police. I have had representations from parents who tell me that their schizophrenic children, as a matter of course, fight with the police whenever they see them, become aggressive and abusive. A whole range of people do a whole range of things for reasons that are beyond our ken. I am suggesting that we need to be sensitive to that fact.

The response was that if you have nothing to hide or nothing to be guilty of, why would you not submit? That is the answer for having this sort of provision. The suggestion is that you have something to hide. If you are schizophrenic, you are perhaps addicted to some illicit substance, you hate the police and you refuse, all of a sudden you are subjected to forcible restraint and having your mouth forced open; yet Mr Stefaniak responds, "If they are not guilty, why are they resisting or not consenting?" It is just part of the varied nature of humanity and this is a reasonable response to the varied human condition. If we are going to go mucking around in people's mouths without their consent, then it should be by order of a magistrate.

MS TUCKER (11.33): The Greens will be supporting the amendments. A perfectly reasonable argument has been put by Mr Stanhope on this issue. Obviously, it has been supported in other jurisdictions as being a reasonable response to the use of this new technology. I have to say that the response from Mr Stefaniak confirms for me the need for such amendments. I am equally stunned by that response.

Question put:

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

The Assembly voted—

Ayes, 7	Noes, 8
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Kaine	Mr Humphries
Mr Quinlan	Mr Moore
Mr Stanhope	Mr Osborne
Ms Tucker	Mr Rugendyke
Mr Wood	Mr Smyth
	Mr Stefaniak

Question so resolved in the negative.

Amendments negatived.

Clauses 6 and 7 agreed to.

Clauses 8 to 22, by leave, taken together, and agreed to.

Clause 23.

MR STANHOPE (Leader of the Opposition) (11.37): I move:

> No 3—
> Page 11, line 16, paragraph (1) (b), omit "if the forensic procedure is a procedure other than the taking of a handprint, fingerprint or toeprint—".

Mr Speaker, this amendment is similar to amendments 4, 5, 8, 10, 14 and 16.

Mr Moore: Why don't you move them all together?

MR STANHOPE: I think the notes take care of that. This amendment was designed to guarantee absolutely that the legislation applies only to those suspects or offenders who are serious offenders. This was done in terms of our concern to ensure that the legislation did meet that requirement, which we understand to be the intent of the legislation, an intent that the Labor Party supports. We believe on the basis of our discussions and negotiations with the drafter that my amendments achieve that purpose.

The amendments also change the language of the clauses to ensure that jurors are not misled about the power of forensic samples; in other words, tending to confirm or disprove the offence may give the forensic sample a credence that it does not deserve.

An issue that has been discussed at length in much of the literature and much of the debate that has occurred in relation to this new technology is that it always needs to be remembered that, in and of itself, a forensic sample or a DNA sample does not prove that a particular person committed an offence. It may, however, prove that a particular person was at a particular spot.

Supported by other evidence, the DNA sample may have certain probity value, but in much of the reading and discussion on the application of the DNA technology there is a concern, which I share, that it needs to be made particularly clear that the sample, in and of itself, is not absolutely infallible or proof of anything. It simply may have probity value on some things.

MS TUCKER (11.39): We will be supporting this amendment, too, particularly in light of the fact that the notion of "serious" in this legislation is considerably less rigorous than it is across much of Australia. I would be reassured if I knew that suspects could be tested only if they were detained under suspicion of serious offences.

Amendment negatived.

MR STANHOPE (Leader of the Opposition) (11.40): I move:

> No 4—
> Page 11, line 20, paragraph (1) (b), omit "tending to confirm or disprove that the suspect committed—", substitute "of, or relating to—".

Mr Speaker, this amendment and amendments 6, 7, 9, 11, 12, 13, et cetera, change the language of this range of clauses to ensure that jurors are not misled about the power of forensic samples, similar to the issues I raised in relation to the previous amendment. The words "tending to confirm or disprove" the offence may give the forensic sample a credence that it does not deserve. As I said, the evidence of itself should not be taken as proof of anything. It is very important that this new technology be used appropriately and that it not be sold, particularly to juries, as some whizzbang, certain proof that an offence had occurred.

MS TUCKER (11.41): We will be supporting this amendment as well. I made reference in my speech earlier to the gloss of new technology and overdependence on forensic science information in court decisions. The case of Azaria Chamberlain and the spilt paint that was "proved" to be a baby's blood rather demonstrates the problems that can be there. It has been said that the chance of an accidental match with DNA testing is a one in a million event. However, the real figures and the real accuracy rate are often much lower—perhaps one in 30. Clearly, it is important in this legislation not to give privilege to this form of evidence over other forms.

Amendment negatived.

Clause 23 agreed to.

Clauses 24 to 28, by leave, taken together, and agreed to.

Clause 29 agreed to.

Clauses 30 to 33, by leave, taken together, and agreed to.

MR SPEAKER: Members would be aware that a number of Mr Stanhope's subsequent amendments were contingent on the passage of earlier amendments.

Clause 29—Recommittal.

Mr Stanhope: I am sorry, Mr Speaker, but you were too speedy for me. I seek leave to have clause 29 recommitted.

Leave granted.

MR STANHOPE (Leader of the Opposition) (11.43): Clause 29 of the bill is the issue which has caused some of the difficulties that I have had with the legislation and some of the concern I have had about its extent and scope. As I said before, and I will repeat it for the sake of this provision, it seems to me that clauses 23, 29 and 34 were designed to ensure that a forensic procedure could be carried out only on a serious offender. I believe that clauses 23 and 34 achieve that purpose. I do not, however, believe that clause 29 does achieve that purpose.

Clause 29, which is about the taking of non-intimate forensic procedures by order of a police officer, provides that in certain circumstances a police officer may take a sample from a person in relation to an offence. That is what it says. That is what subparagraphs (1)(b)(ii) and (iii) of clause 29 say by extension. There is absolutely no other interpretation of those subparagraphs than that they allow in a certain circumstance for a non-intimate forensic sample to be taken on the order of a police officer in relation to an offence.

An offence is defined in the dictionary as meaning an offence against a law in force in the territory. That is what an offence is. It is an offence against a law in force in the territory. It is not an indictable offence. It is not a serious offence. It is an offence against a law in force in the territory. In the circumstances of subparagraphs (1)(b)(ii) and (iii) of clause 29 a police officer can order a forensic procedure to be carried out on an offender.

That is contrary to everything that the Attorney has told us. The Attorney has been spouting long and loud that this legislation applies only to serious offenders. The Attorney has said that there is not a single circumstance in which this legislation can apply to anybody other than a serious offender, but there is. Subparagraphs (1)(b)(ii) and (iii) of clause 29 allow for forensic procedures in certain circumstances, perhaps extreme.

I do not fully understand the circumstances in which they would arise. Perhaps that is part of the difficulty I have; I do not understand the circumstances in which one would find oneself in this situation. Either it is a drafting mistake or there is some deliberate intent to allow the taking of forensic samples against a broader class of offender or

suspect than the Attorney has led us to believe. The amendments I have circulated to clause 29 clarify the situation. I seek leave to move the amendments together.

Leave granted.

MR STANHOPE: I move:

> Page 15, line 31, subparagraph (1) (b) (ii), before "offence" insert "serious".
> Page 16, line 1, subparagraph (1) (b) (iii), before "offence" insert "serious".

Amendments negatived.

Clause 29, as recommitted, agreed to.

Clause 34 agreed to.

Clauses 35 to 48, by leave, taken together, and agreed to.

Clause 49.

MR STANHOPE (Leader of the Opposition) (11.48): I move:

> Page 27, line 7, paragraph (b), omit the paragraph, substitute the following new paragraph:
> "(b)must not be carried out in the presence or view of anyone (other than a doctor, dentist or nurse, or the suspect's interview friend or lawyer) who is of the opposite sex to the suspect; and".

Mr Speaker, this amendment is quite straightforward. This amendment and amendments 20, 21, 22 and 23 are necessary in our view to ensure that forensic procedures are not carried out in the presence or view of a person of the opposite sex to the person giving the sample. There are exceptions made for doctors, dentists, nurses and people such as lawyers or intimate friends invited to be present by the person being tested.

The Labor Party's opinion is that it is an invasion of privacy to allow opposite sex persons to be present, particularly in the circumstances I explained before where the sample is being taken without the consent of the suspect or the offender. We believe that in circumstances where, for instance, a woman is being restrained, she should be restrained by and have a sample taken by another woman.

It is an issue of propriety and privacy. I do not see why it should cause any difficulty. The police are, I must say, to be commended on the extent to which they now recruit women and I would have thought that it would not cause any particular strain to the police to ensure that in circumstances where a woman is being restrained for the purposes of the compulsory taking of a sample it is done by a policewoman.

Amendment negatived.

Clause 49 agreed to.

Clauses 50 to 53, by leave, taken together, and agreed to.

Clause 54.

MR STANHOPE (Leader of the Opposition) (11.51): I seek leave to move amendments 20 and 21 together.

Leave granted.

MR STANHOPE: I move:

> No 20—
> Page 31, line 5, subclause (1), omit "If practicable, an", substitute "An".
> No 21—
> Page 31, line 8, subclause (2), omit "If practicable, a", substitute "A".

The amendments relate to the issue that we have just debated, Mr Speaker, and I have nothing further to say on them.

Amendments negatived.

Amendment (by **Mr Stanhope**) negatived:

> Page 31, line 11, after subclause (2), insert the following new subclause:
> "**(2A)** Subsections (1) and (2) do not apply to the carrying out of a forensic procedure by a doctor, dentist or nurse.".

Clause 54 agreed to.

Clauses 55 to 57, by leave, taken together, and agreed to.

Clause 58 agreed to.

Clauses 59 to 63, by leave, taken together, and agreed to.

Clause 64 agreed to.

Clauses 65 to 82, by leave, taken together, and agreed to.

Clause 83 agreed to.

Clauses 84 to 110, by leave, taken together, and agreed to.

Clause 111.

MR STANHOPE (Leader of the Opposition) (11.54): I move:

> No 29—
> Page 71, line 7, paragraphs 3 (j) and (k), omit the paragraphs, substitute the following new paragraphs:

> "(j) for the purpose of the suspect's, serious offender's or volunteer's medical treatment if a doctor certifies that medical treatment is necessary because of an imminent risk to the life or wellbeing of the person;
>
> (k) for the purpose of the medical treatment of a victim of an offence if a doctor certifies that medical treatment is necessary because of an imminent risk to the life or wellbeing of the victim;".

Mr Speaker, the amendment to clause 111 is an important amendment. It is about an issue I did discuss previously. The disclosure of a medical condition revealed as a result of an analysis of a forensic swab raises significant issues that are worth considering.

The circumstance we are debating here, Mr Speaker, is a situation in which, as a result of an analysis of a forensic sample, it is discovered that the person from whom the sample was taken is suffering a medical condition or disease or has some genetic predisposition to a medical condition or a disease. This raises a very important question. In what circumstances does a doctor or somebody undertaking an analysis of a forensic swab inform either the person from whom the sample was taken or anybody else who is assumed to have been the victim of that offender of the results of that analysis?

It is a difficult issue. It is a sensitive issue. It is an issue in relation to which the AMA, for instance, has a particularly strong view that it is not appropriate to do so without any reference to protocol or any acknowledgment of a person's inherent right to privacy about their medical situation or condition and, of course, without breaching the fundamental doctor/patient relationship. But it is a difficult issue.

We are dealing with an alleged offender. We are dealing with a suspect. We are dealing with somebody that has not been convicted of a crime, albeit they are suspected. They are alleged to have perpetrated a crime. In circumstances particularly of a sexual offence where there has been an exchange of blood or other body fluid and there is a risk of transmission of disease, of course there would be serious alarm on the part of the victim.

This issue has been addressed in other jurisdictions. As I mentioned before, the Victorian government in introducing the DNA legislation decided that it would be appropriate to allow the disclosure of information to both the person from whom the sample was taken and the victim of a crime in circumstances where the analysis disclosed that there may be an imminent risk to the life or the wellbeing of either the offender or the victim.

This amendment seeks to include the same formulation in this bill, that one of the factors that will be taken into consideration before revealing this sort of information to an alleged offender or to a victim is that there should be an imminent risk to the life or the wellbeing of the offender or victim. In those circumstances, it is appropriate that they be advised of what has been discovered. Of course, there needs to be a significant protocol around how that should be done and how that advice should be provided.

MS TUCKER (11.58): We will be supporting this amendment as well. I can see no rationale for releasing the results of DNA testing for medical purposes if the release pertains only to the offender and it is not at the request of that offender or if the condition is not life-threatening. There are many tests of health that we choose not to take. That freedom to know or not know of our own health or genetic conditions ought not to be stripped from serious offenders merely because the power is there to do so. That would be an abuse of power.

Amendment negatived.

Clause 111 agreed to.

Clauses 112 to 115, by leave, taken together, and agreed to.

Clause 116.

MR STANHOPE (Leader of the Opposition) (11.59): I move:

> No 30—
> Page 74, line 2, omit the clause, substitute the following new clause:
> "**116Application of pt 2.7**
> A person is authorised by section 65 (Non-intimate forensic procedures authorised to be carried out) to carry out a forensic procedure under Part 2.7 (Carrying out of certain forensic procedures after conviction of serious offenders) on a serious offender only if—
> (a) the serious offender is convicted of the serious offence concerned after the commencement of that section; or
> (b) the serious offender was convicted of the serious offence concerned before the commencement of that section and, at that commencement, was—
> (i) serving a sentence of imprisonment for the offence; or
> (ii) subject to a parole order under the *Parole Act 1976* or a similar order; or
> (iii) subject to an order made by a court to be of good behaviour, whether or not the person has entered into a recognisance.".

Mr Speaker, this provision is designed to clarify the extent of the operation of the bill. It is an issue on which I was not certain when I looked at this legislation. At the moment, clause 116 provides:

> A person is authorised by section 65 (Non-intimate forensic procedures authorised to be carried out) to carry out a forensic procedure...on a serious offender whether the serious offender was convicted of the serious offence concerned before, or is convicted of the serious offence concerned after, the commencement of that section.

It is not entirely clear to me, having regard to the definition of "serious offender", which is a person who is convicted of a serious offence, whether clause 116 has a retrospective application to people who are currently serving a sentence or who are currently on bail or on remand. It seems to me that we should be certain about the range of people to whom this legislation applies retrospectively and I am just not certain on that.

I do not believe that the provision is certain enough for us to be able to say that the legislation applies only to people currently serving a sentence as a result of a conviction for a serious offence or whether it extends to anybody who has been convicted at any time of a serious offence. It is just not clear to me. I believe that it needs to be clarified and that is all my amendment does.

We debated just yesterday or the day before the spent convictions legislation, the basic legislation designed to allow people to put behind them a criminal activity, a criminal behaviour or a misspent youth. It seems to me that this clause potentially negates the

intent of the spent convictions legislation. I simply do not understand how it would fit within the scheme of that legislation. It seems to me potentially to allow anybody, whenever convicted of a serious offence, to be subjected to a forensic procedure.

For instance, somebody convicted of a serious offence, an indictable offence, 30 years ago, perhaps for possession of marijuana at university, may be susceptible because of the uncertainty in this clause. I am not sure whether that is the intention. Is it the intention of this legislature that a serious offender is, at any time in their life, to be subject to this potential?

I do not think the legislation is clear. I am not sure what it is saying. Nobody has told me whether it is intended that someone who committed a crime in 1960 or 1970 which is defined as a serious offence should be subject to the retrospective operation of this legislation. Does it apply just to people currently—

Ms Carnell: People currently.

MR STANHOPE: The Chief Minister assures me that it is about people who are currently—

Ms Carnell: We do not have enough money to go back.

MR STANHOPE: I would have thought also that it was inappropriate, Chief Minister. The Chief Minister assures me that it is only about people who are serving a term of imprisonment now or perhaps are on bail. Ms Carnell QC has assured us that that is what it does but, with great respect to Ms Carnell, I would like to put the matter beyond doubt and I commend this amendment.

Friday, 8 September 2000

MS TUCKER (12.04 am): We will be supporting this amendment, especially after what has happened this week. We are all very aware of how the Attorney-General enjoys a good retrospective application. Basically, this amendment is making it explicit in the legislation that sampling and testing procedures are to apply only to offenders still under sentence and offenders convicted after this bill has commenced, and not open the doors for a round up of known criminals. Mrs Carnell said that that would cost too much, but that is not a good enough reason to be assured that it will not occur. This is about creating a law.

Question put:

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

The Assembly voted—

Ayes, 7	Noes, 8
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Kaine	Mr Humphries
Mr Quinlan	Mr Moore
Mr Stanhope	Mr Osborne
Ms Tucker	Mr Rugendyke
Mr Wood	Mr Smyth
	Mr Stefaniak

Question so resolved in the negative.

Amendment negatived.

Clause 116 agreed to.

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

MR STANHOPE (Leader of the Opposition) (12.08 am): I move:

> No 31—
> Dictionary, page 75, line 33, definition of ***destroy***, omit the definition.

Mr Speaker, this amendment removes the definition of "destroy" from the dictionary to the bill. The word "destroy" is currently defined as follows:

> ... a person destroys forensic material taken from someone else by a forensic procedure, the results of the analysis of the material, or other information obtained from it, if the person destroys any means of identifying the forensic material or information with the person from whom it was taken or to whom it relates.

The part of the definition that causes me some concern is that the requirement to destroy relates only to the person destroying any means of identifying the forensic material. It has not been explained and I cannot understand why the requirement should not be to destroy the material. The amendment I have proposed is that the word "destroy" in terms of its implications for this legislation be not just that the means of identifying the sample be destroyed but the sample itself be destroyed.

I do not think it is appropriate just to destroy the means of identifying a sample and to have samples lying around. Given the speed with which technology is changing, it seems reasonable to me and to the Labor Party that forensic samples not be just stockpiled or left for no reason.

MS TUCKER (12.10 am): We will be supporting this amendment, too. I think that it is important to recognise that we are creating a database and a library with extensive and uncertain ramifications. I noticed that when Mr Humphries was replying to the in-principle stage he was concerned that I was somehow suggesting that the police force in the ACT was corrupt or whatever. I do not know whether he meant to misrepresent me or

just did not listen to my argument, but I was making the point there that we have had royal commissions which have found serious examples of corruption in various police forces. Of course, the question has to be: why would the ACT not have any corruption at all?

That was not the point I was making, although it seems to be the claim of the Attorney-General. The point I was making was that this database can go nationally and internationally. That is the issue that I was addressing there and the reason I was pointing to particular inquiries which have found corruption was that it is the reality of police forces around the world. I cited one in the United States as well. I am hoping that Mr Humphries just was not listening and did not understand my point there.

Basically, Mr Stanhope is suggesting here that there should be a stronger definition of "destroy". We remain cautious as to the use and manipulation of comprehensive crime and DNA databases and it is only through destroying a sample rather than describing the sample as destroyed that we can have any certainty that the process in reality has taken permanent effect.

I think that it is interesting that Mr Moore has been sitting here and saying nothing because when I first came into this place I saw him as a leader on civil liberties issues. I am very sorry that he has not even spoken tonight.

Amendment negatived.

Remainder of bill, as a whole, agreed to.

Bill agreed to.

ELECTORAL AMENDMENT BILL 2000

Detail Stage

Clause 1.

Debate resumed.

MR OSBORNE (12.12 am): I have taken advice since we debated this legislation yesterday morning. The advice that I have is that it would appear that the best way to deal with my amendment would be to bring it forward as a substantive piece of legislation rather than try to amend the Electoral Act. So I will not be moving my amendment tonight but I intend to bring it back in the next sitting as a piece of legislation. I do, however, think the principle of conflict of interest is very important and I intend to pursue that matter.

MR MOORE (Minister for Health and Community Care) (12.13 am): Mr Speaker, I cannot quite understand how Mr Osborne could have managed to say what he just said. We are dealing with clause 1, which relates to the name of the bill—the Electoral Amendment Bill 2000. I am not quite sure how what he just said is consistent with standing orders when he is supposed to be debating clause 1, the name of the act.

However, we understand where he is coming from and we look forward to the piece of legislation that he has foreshadowed.

MR QUINLAN (12.14 am): Mr Speaker, with your indulgence I would like to say something in relation to what Mr Osborne has just said. Earlier yesterday in debate Mr Moore and Mr Smyth somehow came up with the logic that the opposition's move for complete openness in members' returns could not be accepted because of poker machines. This is not the first time that we have had some cockeyed logic like this peddled around this place. Then they wandered off onto discussion as to whether the opposition should abstain from voting.

Mr Moore: We were just exposing your hypocrisy.

MR QUINLAN: And I think the word "hypocrisy" was chucked around. I was going to refer to that. I just happen to have a piece of paper from the *Canberra Times*—danger, danger—which purports to be a list of donations to successful candidates in 1998. I would like, first of all, to refer to Kate Carnell. The Friends of Kate Carnell Campaign Fund contained 89 donations totalling $168,170. The list includes PG & E Corporation, Brisbane, whatever they are. One would presume that Ms Carnell should no longer vote on anything that has got to do with anything that PG & E Corporation does. The Pharmacy Guild is on the list. So too is Australian Capital Consultants, so that wipes out consultants.

MR SPEAKER: Order! Mr Quinlan, we are debating clause 1 in the detail stage. We are not discussing the in-principle stage.

MR QUINLAN: Well, I am happy to make these comments on clause 4, if you like.

Mr Humphries: That would be logical.

Clause 1 agreed to.

Clauses 2 and 3, by leave, taken together and agreed to.

Proposed new clauses.

MR STANHOPE (Leader of the Opposition) (12.16 am): I move:

That the following new clauses be inserted in the Bill: Page 2, line 2:
No 1 –
"**3A Interpretation**

Section 198 is amended—

(a) by omitting from paragraphs (a) and (b) of the definition of ***associated entity*** in subsection (1) 'independent'; and

(b) by omitting paragraph (a) of the definition of ***register*** in subsection (1) and substituting the following paragraph:

'(a) in relation to a reporting agent appointed by a party or an MLA—the register of party and MLA reporting agents kept under subsection 205 (1); or'; and

(c) by omitting from the definition of ***reporting agent*** in subsection (1) 'independent'.

3B Appointed agents

Section 203 is amended by omitting from subsection (1) 'independent'.

3C Non-appointed agents

Section 204 is amended by omitting from subsection (3) 'independent'.

3D Registers of reporting agents

Section 205 is amended by omitting from subsection (1) 'Independent' and substituting 'MLA'.

3E Annual returns of donations

Section 221A is amended by omitting 'independent'.

3F Advice of obligation to lodge return

Section 221B is amended by omitting from subsection (1) 'independent'.

3G Anonymous gifts

Section 222 is amended by omitting from subsections (1), (2), (5) and (6) 'independent'.".

Mr Speaker, we have had a significant in-principle debate on this bill. We have all stated our positions. Mr Quinlan wishes to expand on his perceptions of the matters that have been raised and debated. My amendment simply reflects the decision which the Labor Party has taken in relation to electoral disclosure. Proposed new clauses 3A to 3G are simply a reflection of our decision to ensure that all members of the Assembly are required to report consistently; that there be no disparity in reporting arrangements; and that the arrangements between each of us, whether or not we be a member of a party or whether or not we be an Independent, be the same. That, in effect, is the Attorney's purpose in introducing the bill. The Attorney had that same motivation.

It is just that the Labor Party's view on how we might achieve parity is not the same as what the Attorney proposes. We would propose that each of us, in effect, disclose a whole range of payments that we may receive as a result of other employment, other investments or serendipitous activity of one sort or another. Proposed clauses 3A to 3G go some way to achieving what the Labor Party believes should be the range of income and income sources that really should be reported on.

MS TUCKER (12.18 am): This amendment simply applies the existing reporting arrangements of Independent MLAs to all MLAs. I agree that there should be common reporting arrangements across all MLAs but I do not think the ALP have done the work in examining the suitability of the existing reporting arrangements and how this interacts with the existing register of pecuniary interests. These reporting requirements are different but overlap.

The Electoral Act focuses on income received by MLAs and establishes thresholds for declaration, whereas the register of pecuniary interests focuses on the assets and sources of income of MLAs and also includes the interests of family members. I would prefer there to be one reporting system that combines the reporting requirements in the Electoral Act and the financial elements of the register of pecuniary interests kept by the Clerk, so that all financial information about MLAs is in one place and there is no duplication of effort or the potential for the two registers to get out of synchronisation.

I am inclined, therefore, to not support the ALP amendment today because I think the amendment needs further examination and development. I am keen, however, to continue this debate over what information should be disclosed by MLAs and what is the best way of keeping this information. I am happy for the ALP to pursue further

amendments to the Electoral Act at a later date or, if they do not want to do this, I am willing to prepare a private members bill on this matter.

I do not really like the way that we are being forced to rush through this at the moment. Basically we are being asked to retrospectively remove requirements to disclose—

Mr Osborne: For the last 10 years.

MS TUCKER: Yes. Mr Osborne says, "For the last 10 years." But the point is that is the situation and this is a reaction to something that has been here for so long. So I will not support what the ALP is doing today but I would certainly welcome some further action on this issue.

MR QUINLAN (12.20 am): Mr Speaker, I will just recap a little. Earlier today we had quite a dissertation from Mr Moore and Mr Humphries in relation to hypocrisy and what we should or should not abstain from because of quite overt support in relation to the Labor Party.

I have a list relating to Ms Carnell's friends of Kate campaign. We have MBA Land. So you really must be precluded from or abstain from voting on anything associated with MBA Land, or that might have been associated with MBA Land because they might be losers as well in some particular decision. The list also includes Air Champagne, Tocumwal.

Here is a good one—FAI Insurance Group, $9,500. This was about the time that FAI were redeveloping the Westpac building, now called the Waldorf—a very imaginative title—and they were given $8,500 stamp duty relief. So, that left a net $1,000 I suppose. It so happens that FAI at that stage was run by Mr Rodney Adler. He is a friend of Mr Ian Knop—I met them together, actually. Mr Knop was a guy that had the freebee—the embassy in Sydney—wasn't he? A thousand a month we paid him. And he is the guy who is the chairman of the Cosmos even though he confesses himself that he knows nothing about football and lives in Sydney.

Mr Humphries: He is not the chairman of the Cosmos anymore.

MR QUINLAN: Well, he was for some considerable time.

Mr Osborne: Ian is a good human being.

MR QUINLAN: I appreciate that. But in fact, as fate would have it, Mr Knop, through Profile Management Consultants, contributed to the campaign of Bill Stefaniak. It would appear that some of the supporters of Kate decided that they would support Harold Hird and Bill Stefaniak.

Mr Rugendyke interjecting—

MR QUINLAN: It was something to do with Ginninderra. You might have frightened them, David.

Jim Murphy's Market Cellars is also on the list. There is not really much association there—CanTrade! And Jim has been known to come out and support Kate in public. We are talking about hypocrisy here. The list also includes Casino Canberra—this is a point disputed by Mr Humphries earlier today—with $15,000.

Mr Osborne: It is still well short of $600,000, though.

MR QUINLAN: I just want to know what your price is. It would seem to be a case of name your price.

The point needs to be made that the Liberal Party received very significant cash support from the 250 Club, a group of anonymous people from the business world. The commonsense point at the bottom of this is that this small Assembly—

Members interjecting—

MR SPEAKER: Order! One at a time, thank you.

MR QUINLAN: It is plainly ridiculous to say that some members on this side of the house should abstain from voting on important questions. This would totally unbalance the whole joint because out of 17 members we number six. But the Liberal Party can quite happily receive support from business. It can make decisions and be involved in decisions every day on matters like payroll tax relief, which affects business.

Mr Humphries: Only below $10,000.

MR QUINLAN: But you have an association.

Mr Humphries: Look at the amendment—below $10,000.

MR QUINLAN: I am not talking about $10,000. I am just talking about whether you would want to cultivate, curry favour, with business. You receive as much money in support as we do but you just receive it from a different—

Mr Stanhope: We will be amending it down to a thousand.

Mr Humphries: Look at the amendment—it is a $10,000 threshold.

Mr Berry: We are amending it down to one.

Mr Humphries: Oh are you?

MR QUINLAN: Yes, we will take it down.

Mr Humphries: You have got the numbers, have you?

Mr Stanhope: I am sure we will have. I am sure Michael will support us.

Mr Humphries: Not on the record of the last few days you wouldn't.

Mr Stanhope: Just tell me about 291B(2) again, Attorney. Just tell me about—

Mr Berry: What a craven performance that was.

MR SPEAKER: Order! I suggest that if you people want to have a discussion, you should go outside and do so. It is 25 past 12 and I do not intend to put up with it.

MR QUINLAN: We even have donors who have completed returns, including the AHA who supplied $5,800 to the Liberals. That is below 10 so that is okay. According to this, Michael Moore got 400 bucks from the AHA.

Ms Tucker: I didn't get any either.

MR QUINLAN: You are out. So, Mr Speaker I contend that a lot of what was said earlier yesterday not surprisingly could be described as humbug and I so describe it.

MR SPEAKER: I call Mr Moore. In case you have forgotten, we are discussing Mr Stanhope's amendment No 1.

MR MOORE (Minister for Health and Community Care) (12.28 am): No, I have not forgotten at all Mr Speaker. I think that some members are entirely missing the point of the legislation. I think Ms Tucker touched on the real issues when she talked about the notion of a common register. I think this illustrates why we should oppose Mr Stanhope's amendment. I have suggested to Ms Tucker that we need to spend more time thinking about it and I realise that that is one of the points of her argument.

I would say that the opposite is true because what we ought to be doing in our Electoral Act is making sure that finances are declared in terms of the support that people have to go to an election. That is what the process is about here. Once somebody is here in the chamber, what you actually want to know is whether or not they have a conflict of interest and that is why we have a register of where people get money from.

I think there are two separate important things involved here. There is a register of the types of places you get money from—the shares you own and that sort of thing—as this may have an impact on how you vote. Also, there is an Electoral Commission register of the money used by a person to run for an election. I think that whilst there is an overlap—and that is where you are coming from—there are two separate principles in what we are trying to achieve. I must say that I added to the confusion somewhat today by exposing the hypocrisy of the Labor Party in the way they vote with regard to poker machines. I was not convinced by Mr Quinlan's strange attempt to respond to that.

Even more interesting is the fact that up until tonight I would have thought Labor members did not how to absent themselves from a vote. We had a very clear indication tonight that Mr Stanhope has been shown by the rest of the caucus how to absent oneself from the vote when you do not have the caucus on side.

It seems to me that we need to keep those things in perspective. Whilst it is appropriate for us to have a level playing field—I think everybody agrees that this should be the case—my view is that we ought at this stage follow the recommendation of the Electoral

Commissioner who is interested in what is necessary in terms of running the fairest possible elections.

Mr Quinlan: Why is it so?

MR MOORE: His recommendation is reflected in the legislation and it should be supported. Mr Quinlan interjects. I could spend some more time once again explaining the difference between a $400 donation and a donation that is millions and millions of dollars, the likely influence that one is going to have as opposed to the other one, and the fact that I do not see the clubs taking on the Labor Party.

The AHA have given me a very hard time on quite a number of issues since I have become minister. So I think that there is a clear distinction. It comes down to this really: I am not overworried about whether they make a $400 donation to me next time, whereas if you guys do not get the money from the poker machines for your next election your chances of getting re-elected are quite slim. Individually your chances are reduced significantly.

Mr Berry: I will tell you what I will do: I will put my money on my chances against yours, and I reckon I would get decent odds around the place too.

MR SPEAKER: Are you planning to address the Assembly or are you having a private conversation with somebody?

Mr Berry: I am planning to address the Assembly and in fact I will be happy to do so as soon as you give me the nod, Mr Speaker.

MR SPEAKER: I call Mr Berry.

MR BERRY (12.32 am): So sensitive are this lot opposite about the sensible decision Labor Party members made years ago to establish a licensed club, so sensitive are they about the decision by the trade union movement and the building workers to set up some clubs ages ago—and much of the work that went into them was probably voluntary of one sort or another; and they put those clubs together for their own particular social and political interests—that they are prepared to attack the entire licensed club industry in the Australian Capital Territory. They are bitter because they did not have the wit between them to try to set one up themselves. Or was it because they could not find enough friends to form a club? I think that is probably closer to the mark.

Earlier yesterday the debate went something like this: I said that I would not mind if the Liberals had a little club of their own because then they would probably stop carping about this and my colleague Mr Quinlan replied, "Well, we'll soon get them a little club—give them a big one, let them manage it for a while and it will soon become small." I think that is pretty close to the mark.

What has happened here is that good sense has gone out the window because of their bitterness over the success of Labor clubs and clubs associated with the trade union movement. Because of this they are prepared to attack the entire licensed club movement all over the territory. My recollection of the figures is that there are something like 300,000 club memberships out there and a lot of these people have multiple club

memberships. Mr Humphries wanted to know who these people are. I am not quite sure what the clubs' constitutions say in relation to the provision of their membership lists but I reckon you could make a few guesses about the number of people who are in clubs if you look at the electoral rolls.

If you are really worried about the trade union movement, Mr Humphries, and you want to know who these people are so you can point your finger at them, just duck up to the industrial registrar's office and ask them for a list of members because it is all public information and there are no secrets. You will find my name on a couple of lists. So if you want to snoop around you can find out what unions people belong to because it is public information and most people like it that way. That is the way I approach the proposals which have come forward today. I think the community would welcome the opportunity to put the bar up a bit. I would just like to know what will not be declared as a result of this change. If the government has its way, that information will be secreted away forever.

I would like to bet that this legislation will be back again for debate. Certainly my Labor colleagues and I are not satisfied with the approach that has been taken in relation to this, especially the move to ram it through this place quickly. That is a disgraceful approach. Government members should not feign surprise when they see this come back again because it is almost certain that that will happen in the new year.

Mr Speaker, I repeat that it would be refreshing if those opposite could be honest with us in their approach to the issue of poker machines. They talk about gambling, they talk about all sorts of things in the licensed club industry, they talk about their contribution to the community, and they talk about their wish to provide poker machines to the casino and so on and so forth. But they never talk about their donation from the casino which, of course, they willingly accepted and are entitled to accept. They never ever want to talk about the widespread attack they are making on the club industry in the ACT, a club industry which employs I guess thousands of workers and pours huge amounts of money into the ACT economy. But they do not pour much into Michael Moore's pocket. The hotel industry did at one stage. They gave him—

Mr Humphries: $400.

MR BERRY: One time before that they gave him some assistance. As I recall, they gave him some assistance when he was arguing for poker machines for them or something like that.

Mr Moore: No.

MR BERRY: Oh yes, you got some assistance with drafting legislation.

MR SPEAKER: Order! Address the bill please.

MR BERRY: You forgot that—you like to forget that one.

Mr Quinlan: Some assistance with drafting legislation that Kate wanted.

MR BERRY: Yes, to help out and so on. It is all assistance—that is the difference. So forget your obsession boys and girls. I suggest you get down to being serious about why you are here—that is, to present yourself as honest brokers acting in the interest of your constituents. You are not here to play your political games with elements of the community that do not think the way you do.

Question put:

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

The Assembly voted—

Ayes, 5	Noes, 10
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Quinlan	Mr Humphries
Mr Stanhope	Mr Kaine
Mr Wood	Mr Moore
	Mr Osborne
	Mr Rugendyke
	Mr Smyth
	Mr Stefaniak
	Ms Tucker

Question so resolved in the negative.

Amendment negatived.

Proposed new clause.

MS TUCKER (12.41 am): I move:

That the following new clause be inserted in the Bill: Page 2, line 2:
"**3A Annual returns of donations**
Section 221A is amended by omitting from subsection (5) all the words after 'personal use'.".

I intend to move another amendment—the key amendment—which seeks to change the wording of the bill. However, I will speak to both my amendments together. I support the intention of the bill but I do not think it has been worded well. At present it says that amounts received by an Independent MLA will have to be declared in an annual return as a reference to a gift received by the MLA in his or her capacity as an MLA "for use solely or substantially for a purpose related to the MLA's position". The problem words are "for use". This is putting an extra condition on when a gift has to be declared. The critical issue here is the motivation of the donor in giving the gift—whether it is a private gift or a gift intended in some way to influence or assist the person's behaviour as an MLA—not how the MLA decides to use the money.

If a donation were given to an MLA for political purposes but the MLA uses the money on a holiday or to buy a new lounge suite then it does not have to be declared under this bill because the money has not been used for a purpose related to the MLA's position. However, it is still a gift and has the potential to have political strings attached because it is putting a mutual obligation on the MLA to return the favour to the donor. The issue of political donations to MLAs is not how they are used but the fact that they are given.

If this wording is retained there is also the issue of who is going to decide whether a gift has been used for a purpose related to an MLA's decision. This is a vague expression which is open to confusion. It is not just about funding election campaigns but could be any expenditure of the MLA that has relevance to his or her job. My amendment, therefore, deletes the references to the use of the donation.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.43 am): Mr Speaker, I will speak to both of Ms Tucker's amendments. The logic of what Ms Tucker has put forward with respect to her second amendment does appeal to the government and I think that we will support that amendment. I have to say that all of these amendments have come forward fairly late in this debate. They come forward in a very—

Mr Stanhope: When did you introduce this bill?

MR HUMPHRIES: Mr Stanhope, what was your excuse for producing seven pages of amendments on the previous bill that was introduced in June? What was your excuse then?

Mr Stanhope: Weighty matters of state.

MR HUMPHRIES: Oh, weighty matters of state.

Mr Stanhope: And under-funded staff—

MR HUMPHRIES: You mean you were fighting in the party room against your colleagues who were out to get your leadership.

Ms Carnell: That was a bit earlier tonight.

MR HUMPHRIES: A bit earlier tonight—that is probably right. I will leave Mr Stanhope and his colleagues to stew in their own juices.

I indicate that we will support Ms Tucker's second amendment. I have received advice that the first amendment would tend to weaken the disclosure provisions. The effect of the amendment is to remove the proviso on the definition of a gift in section 221A, so that a donor of a gift would not be required to submit an annual return even if the Independent MLA uses the gift for a purpose related to an election. To that extent, the amendment would weaken the disclosure provision. So rather than weaken those provisions, it is best to retain them. We will oppose, therefore, amendment No 1 but we will support amendment No 2.

MS TUCKER (12.45 am): I am sorry but I forgot to speak to my first amendment which, although not quite consequential, addresses a related issue. Under section 221A of the Electoral Act there is a requirement for donors to parties or Independent MLAs to submit annual returns to the Electoral Commissioner if they make gifts over a certain amount to these people in any one financial year. Presumably, the Electoral Commissioner can then compare the returns of parties, MLAs and donors to make sure that all donations are accounted for. However, the definition of a gift in this section is inadequate.

In simple terms, the criteria in this section for determining whether a gift to an Independent MLA does not have to be declared are, firstly, the gift is made in a private capacity; secondly, the gift is for the MLA's personal use; and, thirdly, the gift is not used or will not be used "for a purpose related to an election". The first two points are fine but the last point provides a great loophole for people giving gifts to Independent MLAs to avoid declaring them.

For a start, these are annual returns and for two out of three years there will be no ACT election in that year. A person giving a donation in non-election years can therefore quite legitimately claim that they do not know whether the MLA will use this money for an election because they cannot foretell the future. This section assumes that the donor will know in advance how the MLA will use the donation, which would be impossible if the donation is given up to three years before the next election. In fact, if a donor gave an MLA a genuinely personal donation and did not declare it but the MLA later decided to use that donation for a purpose related to an election, the donor would actually be liable for an offence, even though they had no say in how the MLA used the donation, and that does not seem fair.

Like the previous amendment, the critical issue should be the motivation of the donor in giving the gift and whether this is for private or political purposes, not how the gift is used by the MLA. Even if a donation is not given specifically for an election campaign, a donation given to an MLA in that capacity can still create a potential obligation on the MLA to return the favour and thus should be declared. My amendment therefore deletes the reference to gifts being used for election purposes.

Mr Humphries made a complaint about timing. We have been working on these amendments ever since we got your legislation not so very long ago, so I do not think that was a very fair criticism.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.48 am): Mr Speaker, I think Ms Tucker's arguments on her amendment No 1 are quite persuasive, but we are still going to vote no.

Amendment negatived.

Clause 4.

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

No 2—
Page 2, line 8, proposed new subsections 230 (3), omit "for use solely or substantially for a purpose related to the MLA's position".

Clause 4, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

ADJOURNMENT

Olympic Torch Relay
Cities for Climate Protection Campaign
Housing—Dual Occupancies

MR SMYTH (Minister for Urban Services) (12.49 am): I move:

That the Assembly do now adjourn.

Mr Speaker, given no one else wants to speak, I will close the debate. I would like to raise three small issues. The first is to congratulate all those Canberrans who have shown their support for the torch relay in the ACT, in particular the some 10,000 people—the quite huge crowd of which you, Mr Speaker, were a part—who last night enjoyed a spectacular evening at Edison Park. What this shows is that Canberra is right behind the Olympics and that this city is a worthy part of the Olympics.

It is fantastic that we can show off our city to visiting dignitaries, including a Japanese delegation. Ordinary Canberrans have been involved and everyone has loved it. I understand some Canberrans even got to see Nelson Mandela and shake his hand at an Olympic event this morning where the torch was handed over by the Governor-General. It is delightful that people are getting into the mood, that people are enjoying the Olympics and we can all look forward to next Wednesday.

The second matter concerns a letter that the Chief Minister has received from ICLEI, the International Council for Local Environmental Initiatives. In that letter ICLEI congratulated the Australian Capital Territory government on its success in the cities for climate protection campaign. The ACT now leads the CCP campaign in Australia, having received four out of five possible stars. I will now table the following paper:

Greenhouse gas emissions—Copy of letter from CCP Program Manager, The International Council for Local Environmental Initiatives (ICLEI) to Ms Kate Carnell, Chief Minister, dated 25 August 2000.

Mr Speaker, the third issue is a matter that I raised after question time today. Yesterday in the Assembly, Mr Corbell made some incorrect assertions about the number of dual occupancies that have been approved in Canberra. He said, and I quote from page 28 of the uncorrected proof of the *Hansard*:

> Half a suburb a year in Canberra is disappearing through dual occupancy redevelopment. Half a suburb a year in this city gets changed to dual occupancy development. Around 500 dwellings a year.

I am told by my department that this is incorrect. My department has informed me that in the financial year to March 2000 this year a total of 137 dual occupancies have been approved in the ACT. In the year before that, the 1998-99 financial year, there were 135 dual occupancies approved in total, and the year before that, 1997-98, only 67.

The dual occupancy rate in central Canberra, for example, where there are about 17,000 single residential dwellings, is 0.9—less than one per cent. So you can hardly say with any credibility that half a suburb is disappearing to dual occupancy development. And anyway, an average suburb size is about 1,400 dwellings. So I would ask that Mr Corbell withdraw his figures and apologise to the Assembly for what he has said.

Furthermore, Mr Speaker, I would also like to correct another statement made by Mr Corbell yesterday. He is recorded on page 29 of *Hansard* as saying:

> The direction to planning and land management on variation 114 to the Territory Plan was to ensure that dual occupancy does not occur in the old Red Hill precinct.

Mr Speaker, the word "ensure" does not appear in the direction that was given by the Assembly. In fact, the direction says:

> to review the Territory Plan as it relates to variation 114, heritage places, Red Hill precinct, to provide for a development intensity of no more than one dwelling per block in the Red Hill housing precinct.

The word "ensure" is not in his motion. The direction is to review, not to simply ensure that this sort of development does not happen. Once again, Mr Corbell is wrong. He should withdraw this comment and he should apologise to the Assembly.

Question resolved in the affirmative.

Assembly adjourned at 12.51 am (Friday) until Tuesday, 10 October 2000, at 10.30 a.m.