DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

28 November 2000

Tuesday, 28 November 2000

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

PETITION
Deakin—Redevelopment of sections 36 and 33

The following petition was lodged for presentation, by **Mr Corbell**, from 732 residents:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the ACT Legislative Assembly that:
>
> We the undersigned are opposed to the redevelopment of Sections 36 & 33—Deakin which introduces New South Wales Super League soccer games, the uncharacteristic and unsympathetic residential design of 52 medium density dwelling units, traffic and parking planning deficiencies, unsafe open space and loss of mature trees to Deakin and its adjacent residential areas.
>
> Your petitioners request the Assembly agree to redevelopment which:
> 1. Maintains soccer oval usage at current levels and capacity,
> 2. Plans for 3 bedroom (minimum) single dwelling house construction on individual sites which are characteristic and sympathetic to Deakin,
> 3. Satisfies an ACT Government approved Traffic & Parking Management Plan for the neighbouring Deakin residential and commercial precincts, and
> 4. Provides maintained public open space in accordance with the ACT Crime Prevention & Urban Design Resource Manual and preserves existing mature trees.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE
Scrutiny Report No 13 of 2000

MR OSBORNE: I present the following report:

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 13 of 2000, dated 13 October 2000.

The committee report was circulated on 13 October 2000, when the Assembly was not sitting, pursuant to the resolution of appointment of 28 April 1998. I ask for leave to make a statement.

Leave granted.

MR OSBORNE: *Scrutiny Report No 13 of 2000* contains the committee's comments on eight bills and 12 subordinate laws. I commend the report to the Assembly.

Scrutiny Report No 14 of 2000

MR OSBORNE: Mr Speaker. I present the following report:

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 14 of 2000, dated 27 November 2000.

The report was circulated on 27 November 2000, when the Assembly was not sitting, pursuant to the resolution of appointment of 28 April 1998. I ask for leave to make a statement.

Leave granted.

MR OSBORNE: *Scrutiny Report No 14 of 2000* contains the committee's comments on 10 bills and two government responses. The committee indicated that they would like me to thank the Minister for Urban Services—I see the look of shock on the face of Mr Smyth—for his response to some issues that were raised by the committee. I know other members have said it, but the quality of Mr Smyth's response was very pleasing to the committee. I commend the report to the Assembly.

LIQUOR AMENDMENT BILL 2000

Debate resumed from 18 October 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.37): Mr Speaker, the Labor Party has followed with some interest this particular issue and the Attorney's statements and intentions in relation to the banning of the sale of beer on New Year's Eve. It is an issue that we have considered closely and deeply. We have come to the conclusion that the Attorney's proposal should not be supported. We will not be supporting the ban on the sale of beer in glass containers after midday as we understand the proposed regulations will.

It is a very inconsistent approach to a significant problem. The Attorney really has been all over the place in relation to this, and it is not clear to us, and has never been clear to us, exactly what it is that he is banning or what it is that he is proposing.

In his initial utterances, the Attorney suggested that he proposed to ban the sale of all alcohol in glass containers for three days prior to New Year's Eve. I think he fairly quickly realised the absurdity of a blanket prohibition across Canberra on the sale, off premise, of all alcohol in bottles.

There was no consideration of the fact that perhaps the sale of soft drink in bottles represents as significant a problem in terms of potential danger or damage. There was no consideration of the fact that the sale of alcohol in areas around Canberra other than perhaps Civic would be affected by this all-embracing proposal. There was no suggestion that a more serious problem in relation to the consumption of alcohol on the sorts of occasions that the Attorney seeks to address here was the consumption of spirits or the consumption of some of those drinks that seem to be incredibly popular with young people these days, the things that I see them drinking—made-up concoctions of spirits and sundry other mixers. Drinks that are incredibly popular with young people are bourbon and coke, and vodka and whatever they drink with vodka. All of these products will continue to be available for sale.

It is a very specific ban that has been proposed here—a ban just on beer. The suggestion is that it is the beer drinkers who are the antisocial elements within the community. There is no suggestion that it is other elements of the community—the chardonnay-sipping class—that should be targeted in relation to antisocial behaviour.

We think the legislation is an inconsistent and a broad sweep knee-jerk response to what is admittedly a recognised significant problem and perhaps a growing problem. We are not at all convinced that the approach the Attorney suggests be adopted—that we provide regulations that will allow him to declare throughout the year when certain substances will or will not be available for sale—is an appropriate response to a public safety issue or to an issue around public behaviour. He seeks to address a public behaviour issue by the wholesale banning of the availability of a particular product.

It is exactly the same as the argument that some would apply in relation to the provision of syringes through a needle exchange program. It appears that one way of dealing with the issue of irresponsible, antisocial disposal of syringes is to make it extremely difficult to distribute syringes through a needle exchange program. It is a similar response to another major potentially difficult issue we need to deal with. One response in relation to the irresponsible disposal of glass beer containers is to ban the product.

It seems to me that we need to look at and classify these particular sorts of difficult issues that you are seeking to address. We need to focus on the real issue. The real issue is the antisocial behaviour. Is the best way of dealing with the antisocial behaviour to ban the product or to go to the source of the problem? I do not think it is. I think we need to be a little bit more innovative in our approaches to these sorts of issues than simply to say, “This is all really hard. Let us just ban that product.”

We do not think the Attorney has put any real thought into this. He has left it extremely late. He now proposes to pursue this particular initiative through the making of regulations. He has left it to this stage of the year, so that any regulations that are subsequently made will not be susceptible to disallowance by this place before the ban comes into being. It is a pity that he has sat on his hands in the way he has; that he has left it to this stage so that we cannot see the detail; and that in the development of the proposal he has been so inconsistent and unconvincing.

Whilst we acknowledge the significance of the problem and the fact that the problem that is being sought to be addressed here is a growing problem and whilst we have major concerns about public safety and perceptions of public safety, this does not seem to us to be an appropriate or a particularly well-considered way of dealing with the issue.

MS TUCKER (10.44): The Greens will be supporting this legislation. I have listened to what Mr Stanhope said, and I understand that the proposal has changed. I do not think that is necessarily inconsistency. It is just that the proposal has been developed as people have discussed it. I recall a function in Mr Moore's office for Christmas last year where I spoke to one of the public health officials, who was talking about the incidence of injury on New Year's Eve as a result of glass. This proposal is for one year and looks at the impact of reducing the accessibility of glass for a night of the year which traditionally in Australia has been a night when people get out of control from drinking alcohol.

Mr Stanhope said, "Why are you targeting one form of alcohol?" It is probably because that is more likely to be what was in the glass found broken in public places. That would be my estimation of it. We do not have hard data on this, and for that reason you could say, "Don't do it." But it seems to me a reasonable thing to do. It is just for one year. The Greens are asking that an evaluation be carried out after the initial trialing of this public health initiative.

This bill is about trying to minimise some of the harm which results from the use of a drug which is legal in Australia but which, as we all know, is one of the most abused in our culture. This seems a very small step to minimise some of the harm to people who are going to be victims of injury as a result of the way people drink on New Year's Eve. It seems perfectly reasonable to me. We can wee afterwards whether it has made some impact on the experience of people in the hospitals who have claimed that there are huge issues at that time of the year and that there is a lot of injury. The bill seems quite reasonable to me, and I am happy to support it for this initial time.

MR BERRY (10.47): On the face of it, it is reasonable to try to prevent injuries to people in the community and workers who are going to be working in the melees that sometimes occur on New Year's Eve—police, emergency workers and so on. But the legislation does not do that. This is dumb legislation. Have a look at the practicalities of it. Do you think that a VB drinker who only ever drinks VB out of a glass will suffer the indignity, to them, of drinking it out of a can? No, they will not. They will buy it earlier and cart it with them, if necessary, to make sure that they get their VB in a bottle. I do not think people here understand the passion that some people have for drinking beer out of a glass bottle.

Beer drinkers who drink particular varieties are not going to change because the ACT government to changes the rules for 12 hours. They will buy their beer earlier and have enough to keep them going until 12 o'clock, and they will get stuck into it again when you can buy it after the period of the ban.

Why on earth is it that we are worried about only one alcoholic product in glass? I suspect that a full beer can, if you are hit in the head with it, would hurt just as much as an empty VB bottle. I have never been hit by either, and I do not want to be used as a test bed here, but even drunks usually understand that if they want to do a bit of damage with a can it is no good throwing it empty. That will not hurt anybody.

It is a nonsense to apply this ban just to beer. What about all the other mixer drinks that come in glass bottles? One that comes to mind is a vodka mix. I think they call it a Ruski. Young people drink it all the time. How will they be able to tell at the hospital whether somebody was cut by a bottle that contained Ruski or one that contained beer? Let us be serious about this. What about cider in a bottle? How many people do you see now drinking cider? The only way you will be able to tell whether it was beer or cider in a bottle is if there is a small bit of glass left in a wound.

It is getting to be ridiculous when you ban just beer in glass for 12 hours on New Year's Eve. What a foolish proposal. If you wanted to deal with the issue, if you were serious about it, you would look at all glass. An empty chardonnay bottle, I suspect, hurts a lot more than an empty VB bottle. It is quite a lot heavier and travels further. The glass from such a bottle, I suspect, cuts just as badly. Do you think those who have been denied beer in glass will give up alcohol for the night or until 12 o'clock so that they can get some beer in glass afterwards? Stop kidding yourself.

They will get something in glass, if it suits them—perhaps wine, perhaps rum, perhaps Bacardi, perhaps something even a little flasher than that. If they want to spend a little bit of extra money, they can buy a bottle of Dimple, or they can buy a small flask of sipping whisky in glass. Do you think they are going to give up glass for the night just because you say they cannot have glass beer bottles for 12 hours on New Year's Eve? No, of course, they are not.

This is just foolishness. At the end of the day it will not prove anything. If there is an assessment of what happens in our hospitals, how on earth are hospitals going to be able to demonstrate that the injuries were caused by the glass that contained beer? They are not going to be able to tell. It is just a nonsense to approach it in this way.

If you were to ban the consumption of any alcohol at all in certain areas, then you might be getting close to the issues, but imagine the outcry. How would you define the areas? Imagine the outcry from business and so on.

This is just an attempt to create the impression that the government is doing something about a notional public safety issue on New Year's Eve. It is about creating an impression. It is not about dealing with the problem at all. To deal with the problem properly requires harder, even harsher approaches to the issue, which the government could not withstand and would be rejected by the community for.

This is a silly piece of legislation. It ought to be put in the dustbin. It should be taken away by the Attorney and rejigged. I know that he will get up and argue passionately that the brown glass around beer is far more dangerous than the green glass around apple cider or the glass around chardonnay, whisky, rum or any of those sorts of potent alcoholic beverages.

Beer glass is supposedly far more dangerous. Is it because beer is a working-class drink, perhaps? Is it for some other highly technical reason that escapes me? There is a highly technical reason why the brown glass containing beer is more dangerous than the other glasses! What a lot of nonsense!

I cannot believe that this piece of legislation got through cabinet. Half of them must have been asleep. They might have emptied a few of those brown bottles, or do you think maybe cabinet could afford to drink something a little bit more up market than that?

Mr Speaker, I cannot understand how such a piecemeal approach to what is perceived as a problem has found its way into this Assembly. I can only deduce from all of this that this is a government hell-bent on creating the impression that it is doing something about a problem. But at the end of the day it has come up with the silliest of solutions, one which in the end will not sort the problem. I am happy to see the Attorney-General embarrass himself with his ludicrous proposal that glass from beer bottles is more dangerous than glass from bottles containing other alcoholic substances or even more dangerous than glass containing lemonade. I urge members to ditch this proposal.

MR KAINE (10.56): Much of what Mr Berry just said traversed the ground that I was going to cover. This seems to be a half-baked piece of legislation that the government has not really thought about. It sounded like a good idea at the time. I have two questions. Firstly, what prompted this piece of legislation in the first place? The speech made by the Chief Minister when the bill was tabled does not tell us what prompted it. Secondly, how effective does the government think this legislation is going to be? When the Chief Minister tabled this bill, we were told:

> Such a regulation would help avoid—

I am not too sure what that means—

> the repetition of smashed glasses and consequent injuries that have occurred on previous occasions.

Before the government starts legislating about something and banning something, it might tell us on how many occasions there has been smashed glass and consequent injuries, how serious the injuries were and whether those occurrences warrant a legislature banning something. I do not know, because the government has not bothered to justify itself. It has not told us. All it has said is that it would help to avoid "the repetition of smashed glasses and consequent injuries that have occurred on previous occasions".

I am not impressed. I do not know what that means, and I do not believe that this legislature ought to ban things as a matter of practice simply because the government comes along with a statement like that. For that reason alone, I will oppose this legislation. It has not been justified by the government.

More importantly, how does the government believe this legislation is going to be effective? It does not ban the consumption of alcohol in glasses; it just bans the sale of it. That means that I can buy any quantity of alcohol in bottles the day before, put it in the boot of my car, arrive in Civic centre on New Year's Eve, consume as much of it as I want, smash the bottles—do what I like. It would not be against this legislation. All the legislation does is prevent people who are in the business of selling liquor from selling it. What a nonsense!

The other little kick in this is that this is not just for New Year's Eve. This permits the minister to make a regulation dealing with consumption of alcohol at specified times of the year. He or she can do it every day if he or she wants. They can say, "Today is a good day to ban the sale of alcohol, so we will put in a regulation and we will not allow shops to sell it today." Are they going to do this on Anzac Day?

Ms Tucker: The regulation can be disallowed.

MR KAINE: That is not the point, Ms Tucker. The government has not justified doing it in the first place. The fact that it can be disallowed does not alter my argument one jot. Are they going to do this on Anzac Day? On the day before Anzac Day is the minister going to say, "It is a bit unfortunate but the old diggers might get out and break a few beer bottles tomorrow, so we will ban the sale of alcohol on Anzac Day"? Or will they ban it on Remembrance Day, Christmas Day, Good Friday or any other day that the minister or some public servant takes it into his or her head that this is a good thing to do? It is very non-specific. It says "at specified times of the year". What are the specified times of the year? They do not tell us.

As I said, the bill is a half-baked idea that will achieve nothing except upsetting a lot of people who are in the business of selling alcohol. It will not achieve the objective that the minister is seeking—and that is to help avoid the repetition of smashed glasses and consequent injury, whatever the incidence of those events is—and it has not been justified one jot. Mr Speaker, it is poor legislation. It has not been thought through. It should not be on the table here for debate, and I will vote against it.

MR QUINLAN (11.00): I would like to advise the house that I have been known to have a few people around my place on festive occasions like New Year's Eve, Christmas Eve and other days. Like many people, on such a day I have lost control of my refrigerator to the food and the prepared salad, and usually there are very few containers of alcohol in the fridge by the time the event is about to start. Part of the solution to that recurring problem is to hold back purchasing the bottles of beer until the last moment. Buy them cold. Then it does not take much to keep them cold for the occasion.

A lot of people are going to have functions at their house on New Year's Eve. Like it or not, most people in the suburbs do not take a lot of notice of what we do. Unless this legislation is promulgated very well, I suspect that a number of people are going to be caught by it. I refer to people who have planned to have a function at home and who wander down to the local liquor store to buy a half-dozen or dozen bottles of beer that they intend to serve and find that the sale of beer is banned. It is banned because there are a couple of hot spots in town and the government has made a decision without much research, as Mr Kaine has pointed out.

A feature of some of the regulation that has come through in recent times is that it has been based on anecdotal evidence received by government as opposed to any rational or reasoned statistics that one would normally expect from a government for its support. This legislation will inconvenience people who are not aware of it.

As I said earlier, a lot of people do not take a lot of notice of what is happening here. It might be reported in the newspaper. We know there are a lot of people who do not read the local newspaper. There are people in this place who regularly assert that they do not

read the local newspaper. The liquor stores will be open, but when you go in and say, "I would like a slab, because I am having a barbecue," you will be told, "No, sorry. You might throw the bottles at each other in the privacy of your own backyard, so their sale is therefore banned for the second half of New Year's Eve."

I have to agree with those people who have spoken against this legislation. It demonstrates that some people in this place, and possibly their advisers, are a little bit out of touch with the community that they are supposed to serve. None of what I have said should be taken as not being concerned about public safety. We certainly are concerned for public safety. But if public safety becomes the sole criterion by which we frame legislation and regulation then we are heading in a rather concerning direction.

The point has been made that this legislation, once passed, would allow this regulation to be invoked again and again. I agree with Mr Berry's point that it has obviously been done in haste; it is ill prepared. Maybe there is room to invoke some regulation that ensures that in particular public places people do not carry alcoholic beverage of any kind in glass containers at specific times. I would be prepared to look at such legislation that had some rational basis and was not a blanket inconvenience for everybody in an attempt to address a problem in a simple way as opposed to a reasoned, intelligent way.

I would still like to be able to go down to Cooleman Court on New Year's Eve and pick up a few cold bottles of beer for New Year's Eve and not have to stick them on ice for half a day because I have lost control of my refrigerator to the cheesecake and the salad.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (11.06), in reply: Mr Speaker, I would be very happy to explain to the Assembly what the genesis for this legislation was and why it was brought forward. My habit on New Year's Eve, at least in recent years, has been to go out with the police and observe ways in which issues of public order and so on are being handled by the police on such occasions.

In the last couple of years the point has been made to me very consistently that we have a major problem in Civic and sometimes Manuka with people consuming large amounts of alcohol in those places and then in fun or perhaps accidentally smashing bottles on the road or on the pavement, resulting in serious injury. In recent years the ACT Ambulance Service, which has generally stationed people in public places such as Civic on New Year's Eve, has dealt with a large number of injuries as a result of people stepping or falling on broken glass.

I can advise members that the glass is almost exclusively beer glass. There are possibly other bottles in the broken glass. My observation in previous years—and I invite members to make their own observations on this—is that that glass has been exclusively beer glass. I have not encountered too many broken Bollinger bottles or chardonnay bottles amongst those contributing to the problem.

The government saw this problem and said, "What can we do to fix it?" People being injured in this way on New Year's Eve is a serious social problem, apart from the cost that flows on to the community in having to deal with those injuries. We looked at the options available to us. Members may be aware that the territory's law already states that it is an offence to consume alcohol from an open bottle within 50 metres of a shop. At

the present time it would be possible to stop people consuming alcohol from any kind of container in places like Civic, particularly Garema Place, and Manuka.

The problem with that approach, which is one approach the government considered, is that we were aware that the police take the approach on occasions such as New Year's Eve to be very tolerant of people consuming alcohol in public places. It would result in considerable confrontation between police and party goers if the police were to say, "Sorry, every bit of alcohol you have in your hand is illegal. We are confiscating that, and you are going to be prosecuted." That would cause considerable problems, particularly given the fact that there are people within licensed premises, sometimes on the pavement adjacent to licensed premises, where the consumption of alcohol is legal.

We were left with the very difficult position that to enforce a ban against the consumption of beer in those centres or even against all alcohol in those settings would set up a most unfortunate environment for merrymakers on those important public occasions. It was the government's view that that was not an appropriate way of dealing with the problem. The alternative that was considered was to try to deal with the problem at source: that is, the purchase of those bottles for the purpose of consumption on New Year's Eve.

Why have we suggested the proposal that we should have a cut-off period from midday on New Year's Eve until 11 pm? The reason is that the assumption we are making—I think it is a reasonable assumption—is that those people who intend to rock down to Civic to count down the new year, maybe watch some of the activities and concerts in Civic and have a good time and to drink a great deal are likely to swing past their local bottle shop on the way to Civic or wherever it might be, pick up their two or three chilled slabs of beer, put them in the back of their car or their ute or whatever it might be and get down to the place where they want to consume it. It is those sorts of people, consuming for the most part beer in that form, who will be affected by this legislation.

Mr Kaine is quite right to suggest that there are ways around this legislation. Absolutely. I concede that at the outset. A person could purchase their alcohol before noon, and indeed it is possible some people will do that. A person who is a dedicated VB drinker could go to Queanbeyan to purchase their beer. We are not aiming the legislation at the careful, thoughtful person who plans their evening ahead and perhaps arrange to have some friends over for a barbecue in the back yard or has a few friends at home for various reasons. The sort of person I have described will get around the legislation.

We are aiming this legislation at people who will pick up beer at the last moment, already chilled, from the bottle shop, take it to a public place and drink it there. If this legislation passes today, those people will be faced with a choice. They can, as Mr Berry first suggested, retain their loyalty to a particular brand—VB or whatever it is—and switch to some of those products that are available in cans or in plastic bottles. Members might not be aware that there is now an increasing range of beer products available in those forms. I would be surprised if there were many dedicated beer drinkers who would not be able to find an acceptable beer in a plastic or aluminium container. Or they could do what Mr Berry later, somewhat inconsistently, suggested they might do and switch to some other kind of alcohol. I suggest that the damage done by smashing half a dozen or a dozen beer bottles on the pavement is somewhat greater than smashing a single bottle of sipping whisky, if that indeed is what people decide they are going to do.

This is not a perfect solution to the problem. I guarantee that there will still be broken glass of some form or another on the pavements of the ACT. I have been to those places where on New Year's Eve public order problems are evident, and I can tell you that you can see on those occasions a sea of broken glass. As I said, they are not chardonnay bottles, Bollinger bottles or Dom Perignon bottles; they are beer bottles.

This proposal has been supported by the Australian Hotels Association, whose business it is to sell alcohol. They support the measure, because they can see that there is a problem or public order on the streets of Canberra. If the Australian Hotels Association thinks it is supportable, why do members of the Labor Party in this place not support it?

The Labor Party says that something has to be done about this problem. Indeed, it does. But what has to be done? What is Labor's suggestion about how to deal with this? Should we confiscate beer bottles from drinkers in Civic? Legislation would probably support that at the moment, but that would lead to confrontation with drinkers, perhaps drinkers who are already intoxicated. I would rather have to knock these people back when they were still sober and able to deal with the problem rationally than wait until they were heavily intoxicated before making that decision. That would be a responsible and prudent course of action.

I have circulated the regulation the government proposes to make. It will not apply to Anzac Day, Australia Day or any other public celebration in the ACT. There is one period which is clearly a problem for the territory, and that is the lead-up to New Year's Eve. The regulation I have produced is the regulation I will make if the Assembly passes this legislation—and no other.

I ask members to consider how that would contribute to a factor which has been much in discussion in recent days in this place, and that is public safety. How do we assist public safety in the acts that we take in this place? We contribute to it by helping minimise the extent of injury on the streets of our city on public occasions such as New Year's Eve.

Mr Berry was on the radio this morning talking about how concerned he is about issues of occupational health and safety. Let him put his money where his mouth is and back this legislation to make sure that a genuine attempt is made to minimise the amount of broken glass which is a hazard to people of this city on occasions such as New Year's Eve. I commend the bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

LAND TITLES LEGISLATION AMENDMENT BILL 2000

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

That this bill be agreed to in principle.

MR CORBELL (11.17): Mr Speaker, this legislation was introduced only a short time ago; however, it is, in essence, relatively minor from our understanding of it. It simply provides for certain amendments to the Land Titles Act to provide for a more streamlined process for dealing with certain changes under the Land Titles Act. For example, the bill provides for the replacement of a lost grant or certificate without the need for it to be duly notified through a daily newspaper, a requirement perceived to be unwieldy. The Labor Party has no problem with that approach.

The bill deals with a number of other issues, such as processes for the surrender and regrant of leases. Again, this bill does not appear, on the face of it, to make any substantial change to the process of leasehold administration in the territory.

Mr Speaker, the bill also includes provisions to allow a mortgagor of property to apply for a court order to sell the property. As we understand it, this power is already in place in legislation around Australia. It is rarely used, but it is important in a property market which is suffering some distress. Again, this proposal would seem to be a commonsense approach and the Labor Party has no problems that it is aware of in relation to changes in that regard.

The final issue concerns clarifying how land is dealt with when it is subdivided into unit title. The bill amends the Land Titles (Unit Titles) Act to ensure that issues such as access to easements are properly recognised on unit title plans. That is particularly important where changes are made to those plans; so it is important to have a clear result.

Mr Speaker, the Labor Party will be supporting this legislation this morning.

MR SMYTH (Minister for Urban Services) (11.19): Mr Speaker, the Chief Minister is off opening a small business centre, so I will close the debate for him. I thank the Assembly for its support of this bill. It is about housekeeping. The whole intention is to make things easier for land-holders who want to carry out business concerning their blocks of land. It is very important that we get it right because procedures should be simple to make things work better for land-holders.

The housekeeping provisions do clarify some current areas of uncertainty and this bill is part of a continual process of ensuring that the land titles law is kept up to date. We believe that all the changes will be beneficial to land-holders in the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ELECTORAL AMENDMENT BILL 2000 (NO 2)

Debate resumed from 18 October 2000, on motion by **Mr Humphries**:

That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (11.20): Mr Speaker, this bill will allow electronic voting at polling booths, the data entry of paper ballots, and electronic counting of votes in elections for the Assembly and in referendums. If the changes are to apply for the next election, the bill will have to pass this year, yet the Attorney introduced this bill only on 18 October 2000 and we received the scrutiny report only today.

Under this bill, the Electoral Commissioner may approve a computer program to allow electronic voting and to scrutinise the vote. The commissioner may only approve a program if it meets a number of requirements; for example, voters can show their preferences starting at one, correct any mistakes, and vote informal if they wish. The bill provides for a ballot to be in an electronic form and for the commissioner to approve changes to the ballot to allow its display on a screen. Voters will retain the right to use the traditional ballot.

For the 2001 election, the commissioner proposes to have electronic voting available at the four pre-poll centres and at four of the larger centres on polling day. There would be perhaps 10 electronic stations in each centre. In a briefing for the Labor Party, the commissioner has outlined a possible way the process could go. That outline is, of course, speculative as the commissioner is yet to test the market to see what software and engineering options are available and possible.

When their selection is completed the voters will be asked to confirm their choice. Voters will not be able to submit an accidental informal vote, although they will be able to submit an informal vote if they wish. Once a vote is confirmed it will be saved to at least two separate locations on disk, may be printed out, and copies of the data will be stored as a backup.

The computers used by voters may be stand-alone or locally networked. The commissioner advises that they will not be connected to a network that can be hacked into. Data from the voting centres will be transferred to a central computer.

For the next election at least, most voters will continue to use paper ballots. On election night, paper ballots will be counted manually to first preferences. After polling day, instead of a manual recount, information from the paper ballots will be entered into an electronic database. The commissioner proposes that papers will be entered twice by different operators. The papers will be batched so that discrepancies can be detected and followed up. Scrutineers will be able to observe the data entry.

The electronic data will be used to distribute preferences. It will be used also for recounts and for determining casual vacancies. The bill also amends the Referendum (Machinery Provisions) Act 1994 to allow for electronic voting and counting in referendums.

The outline that I have given is based on a briefing by the Electoral Commissioner. It should be noted, though, that under this bill it is the commissioner who will determine whether electronic voting and counting is to be introduced for the 2001 election. The commissioner proposes to have a reference group on which MLAs would be represented and says that he would not proceed if he did not have the group's approval. There is, however, no formal obligation for him to do so.

Mr Speaker, the march to an electronic system may be inevitable and we should not be frightened of it. Nevertheless, this bill raises some issues to note. The first is the handing over of the decision on introduction of the system to the Electoral Commissioner. On this aspect, we will be relying on the commissioner and his professional capacity.

Security is a further major issue. Given the experience of the Pentagon and other major computer system users that have received some notoriety in news reports, can we expect the ballot data to be secure from unauthorised access or manipulation? In the event of disputes, how can we be assured that data has not been tampered with deliberately or accidentally? How will the system maintain a record of votes cast without intruding on the privacy of the individual vote? How can people be sure that the computer program that captures and counts the votes is doing its job properly?

To address this, I am advised that it would be best if the software for the entire electronic voting system were open source. "Open source" means the underlying code from which a program is written is published. The program and its operating system must be very reliable and secure. For instance, will the software avoid glitches? What will happen if the system crashes just as someone votes? How can that voter be sure that his or her vote has been recorded?

There will be many other issues to be considered in developing this proposal. Some will be the layout of the ballot on the screen, access to the screen for people with disabilities and of different size, and the privacy of the polling booths.

There are only 11 months until the next election. Implementing a system to allow for the electronic casting and tallying of votes in the time available may be being optimistic. Software engineering projects are notorious for going over time, over budget, and failing to meet specifications. The Electoral Commissioner and his reference group will have a large task before them.

Mr Speaker, in acknowledging each of these issues that do need to be addressed in the time available to implement this proposal before the next election, the Labor Party will support the bill, but that support is subject to one substantial and important proviso. This bill is not about voting using the Internet. It is about electronic voting and clause 7 of the bill, proposed new section 120(2), restricts electronic voting to the commissioner making arrangements at a polling place for electors to use an electronic ballot paper—arrangements only at a polling place.

Mr Speaker, the bill is not about Internet voting and it needs to be made clear that the bill is not about Internet voting. We may go to the Internet eventually, but not until a great many questions have been addressed and resolved.

For some of those questions, we need only go as far as a speech delivered by the Electoral Commissioner to the Australian Political Science Association's politics of the future seminar at the ANU on 5 October this year. The commissioner acknowledged that Internet voting is perhaps technologically feasible now, but went on to say, "It is another thing to say that it would be transparent, secure, accurate, secret, timely, accountable and equitable." The biggest hurdle to Internet voting that the commissioner has identified is security.

As I said earlier, Mr Speaker, we have all heard of the breaches of supposedly secure systems. What would be the consequence of a breach of the voting system? If we became aware of a breach, how would we respond? The commissioner suggests that the response may have to be a new election.

The commissioner addressed, too, the difficulty of ensuring that Internet voters are whom they say they are. Then there is the question of the integrity of the individual vote. How are people voting over the Internet from home going to be protected from coercion by others in their household? What would be the consequences for our community and the democratic process of a shift to Internet voting? Those are important and interesting questions for the future; but they are not questions for debate today on this bill, except to make it clear that this bill is not about Internet voting.

Mr Speaker, this bill is about allowing electronic voting at polling booths, the data entry of paper ballots and electronic counting of votes in elections for the Assembly and in referendums on a trial basis. It is on that basis that the Labor Party will support the bill. I wish the commissioner the best of luck in the development of appropriate systems in relation to which we can all have faith and trust.

MR KAINE (11.29): Mr Speaker, this bill is in many ways groundbreaking. It reaches into the very core of those processes by which all of us have been elected to this place in the past and will change significantly the way that that process operates in the future. I think that we have an obligation to look very carefully at this proposal. I do not know that we should be taking it so readily at face value.

There is so much about this proposal that I do not yet understand from a technical viewpoint and I do not think anybody else in this place does, either; yet we are being asked today to give in-principle support. We were being asked to endorse it fully, but I understand now that consideration of the bill will be deferred after the in-principle stage to allow some amendments to be made to it. We do not know yet how many amendments or how significant those amendments will be, but I think that that indicates that we do need to be very careful.

Events in another part of the world over the last few months have indicated just how careful you need to be. I do not know that we are any smarter than some of the people who have developed and designed systems in the United States, in Florida in particular.

Mr Humphries, in his presentation speech on behalf of the Attorney-General, really said very little. He told us that the government had accepted a recommendation from the Electoral Commissioner to introduce such a system at the next election. There was not a great deal of justification for it. The Electoral Commissioner, for reasons of his own,

apparently made a recommendation and the government has adopted it. We are now being asked to act upon that.

Mr Humphries provided brief lists of what the bill would allow. He told us that this bill is the first in Australia to allow voters to vote electronically, which I think we all knew. The bill tells us about the fundamental architecture proposed for the electronic voting system and it establishes principles for electronic ballots performing all of the electoral management functions possible with the use of ballot papers, so we are told.

Mr Speaker, the bill gives the Electoral Commissioner control over how the electronic voting system will operate. I do not argue with that; I have great faith in our Electoral Commissioner. The commissioner will have power to approve the software used to record votes cast using the electronic voting system. He will be responsible for ensuring that the machines and the software are kept secure and that they cannot be tampered with.

The commissioner has identified three requirements that in his view the system must fulfil for democratic elections; that is, secrecy, transparency and accountability. I can think of some more and I will mention them in a minute. In the last few weeks we have seen what happened when a recount became necessary in the US presidential election, using a mixture of machine voting and handwritten ballot papers.

To the commissioner's trio of requirements, I would add a few more: firstly, user friendliness. The whole kerfuffle in Florida has been about whether a hole was punched in a card. Obviously, it was not user friendly, because so many people particularly in one county made a major error in their voting. The system must be capable of being quickly and easily understood by people, particularly by non-English speaking voters, elderly people and people who have never used a computer. Believe it or not, there is still a lot of it in this country. We are going to ask them to vote electronically. Lots of people cannot even use an ATM machine; they do not want to use one, to be frank. But we are going to ask them to use a similar system to vote.

The machines must undergo careful user testing and finetuning before voters confront them in a real election. The software must present the choosing process to the voter in a way that is neither threatening nor capable of being misunderstood. Those are simple requirements, but satisfying them will demand great skills from the people who create the system. If you do not believe me, just look at what happened when computers were first introduced. Everybody thought using computers was going to be simple. It turned out to be a very complex business to use a computer to do what you actually wanted it to do. You have heard it before many times: garbage in, garbage out. Nothing has changed. Computer systems are complex and for some people they are difficult to understand.

The second requirement that I would add is clarity of individual ballots in the event that a recount becomes necessary. Recounts will become necessary here, just as they have in the past and as they have in other parts of the world. They should have a fail-safe capability, because electronic systems do crash. Duplication of the central server seems to be an essential requirement and both systems should operate in parallel in real time. That would be expensive; but if it is the wish of the Assembly to proceed to electronic voting, I think we have to accept that penalty.

Finally, we must have integrity. The proposed system will require a network. It must be isolated from the Internet and it must be accessible only to authorised users. You can imagine the fallout if anybody with a PC and a modem could get access to the central server. That is happening elsewhere every day of the year. People are getting access to NASA and to the US Department of Defense. It is easy for some people. What would happen to our electoral system if somebody hacked into the system and changed it?

Mr Speaker, I do not think that it is a simple matter. I have two principal concerns about the bill and the proposed changes that underlie it. The minister has not told us two things. The first is what it will cost to create the new system, to install it at each election and to maintain and store the equipment under tight security between elections, nor has he told us what the government expects to save by installing the system. Surely a basic cost-benefit analysis that tells you what it is going to cost you and what it is going to save you is a prerequisite to installing such a system, because it is not going to be cheap. If it is cheap, it probably will not work.

Unless the savings exceed the cost, I am not convinced that we should abandon a system which has served us well enough in the past, albeit a bit slow in coming to a result. A simple fascination with technology is not, of itself, sufficient reason to go into such a system. Its benefits have to be proven and its integrity and safety have to be proven.

The aspect of the bill that causes me most concern is what it does not provide. In particular, I feel concerned that the bill provides no means for this Assembly to review and approve the decisions that the commissioner makes about software and security before they are implemented. I have utmost confidence in the commissioner, but at the end of the day we must be responsible for the outcome of changing the processes or mechanisms of the electoral system; so we should be able to review what the commissioner decides and satisfy ourselves that what he is proposing to do is in the public interest.

I believe that this legislature has both the right and the duty to put its imprimatur on the design and operating principles of the machines. I believe that this Assembly should be informed about and approve how the software will work, especially in light of the Robson rotation system. It is a bit different from most other electoral systems.

I believe that this Assembly should be satisfied in advance of their establishment about the safety systems in relation to the ballot and about arrangements for keeping machines and the software secure, not only when they are being installed at the polling booths, connected to the electoral network, used by voters and then having the results of the ballot ascertained, but also during those long periods between elections when they will be sitting in secure storage, presumably, doing nothing. These are not issues that can be ignored or set aside.

The government has presented a bill that denies the Assembly the power to review and approve the proposed systems and their ancillary arrangements before they are locked into the voting culture of the territory. This withholding seems at best to be suspicious, at worst insidious. The electorate is entitled to have its elected representatives satisfied that the new system under which future Assemblies will be elected is truly democratic and safe from taint or inference. The government has, through the present bill, denied members the chance to fulfil that expectation, in my view.

The bill would not suffer, either, by providing that no member of this Assembly may have greater access to the voting machines than any other voter would have; that is, in a polling booth on election day. We owe it to the voters to ensure that the staff of the Electoral Commission will have proper protection from Assembly members or candidates, or others, wishing "to have a look" at the machines and how they work. The only time members should have a look is at a demonstration supervised by commission staff before the first election at which the system will be in use. They should have no access other than what the general public has after that. I am quite serious about that, Mr Speaker. It is in our best interests that members have no more intimate contact with the system than the voters.

Mr Speaker, I have no qualms about the probity of present and future electoral commissioners in discharging their functions under this bill, but I do have concerns about giving any government unfettered, unrestrained and, most importantly, unreviewable power to tinker with the matters for which this bill does not yet provide—and it does not provide for a great deal, in my view.

While I believe that members should have no greater access to the electronic voting equipment than the voters, I am nevertheless convinced that the bill needs strengthening to interpose this Assembly between the new voting system which the bill will allow and the arrangements made to operate that system. We should not pass this bill until the government provides for that.

Members are entitled, even obliged, to be satisfied that the Electoral Commissioner has provided hardware and software that together guarantee the integrity of the voting process and provide the basis for perpetual security arrangements capable not only of keeping unauthorised persons out, but also of ringing alarm bells if by some unforeseeable mishap somebody unauthorised does manage to get in. It is not just a simple matter.

Mr Speaker, let me recap on what I think the government has to implement before the territory conducts any election using electronic voting. The machines must be demonstrated to be user friendly, first and foremost. People approaching a voting machine must be able to see easily how to operate it to record their vote. The system must be transparent to scrutineers in the event that a recount becomes necessary. The system must have a fail-safe capability under which one central server on standby can also serve as a check on the active server.

The government must demonstrate that the savings resulting from the electronic arrangements will exceed the cost of creating, installing, operating and storing them. The government must take the bill back and redraft it to provide this Assembly with a review and approval power over the detailed arrangements prior to their first application.

Mr Speaker, I am almost prepared to suggest that perhaps this bill should go to a committee of the Assembly for examination, but I know that there is a time scale on it and to send it to a committee of the Assembly would delay it for anything up to six months. I am a bit reluctant to do that, but I want to be satisfied that the government will undertake to review the system along the lines that I have outlined and make sure that it is a system which can be held accountable and which provides a mechanism that the

public can use safe in the knowledge that it will give a right result and safe in the knowledge that, if a count needs to be reviewed or retaken, the system can achieve that simply, easily and with integrity.

Mr Speaker, I think that these matters are too important to be dealt with lightly and I am seriously concerned about what the bill and the minister have not said. I am not too concerned about what is in there, but I am concerned about what has not been said and I think that we need to deal with those matters before we put the bill into practice.

MS TUCKER (11.42): The Greens will be supporting this bill, although we will be putting amendments later. The bill amends the Electoral Act to allow for electronic ballot papers, electronic capture of ballot information, and electronic counting of ballots in ACT elections. It will also allow this data to be used to determine the filling of casual vacancies in the Assembly.

The bill does represent a very significant change to the way elections have traditionally been conducted using paper ballot papers and the manual counting of votes. I note that the ACT will be the first jurisdiction in Australia to allow electronic voting and that this bill goes far beyond what is allowed in other Australian jurisdictions for the electronic counting of votes. I am quite happy for the ACT to be a groundbreaker in many areas of government activity; but, at the same time, I think that we need to take a cautious approach to any reforms, particularly one which goes to the heart of our democratic system.

Mr Kaine has just expressed very clearly his concern about a number of matters that I think would be common to most concerns felt by anyone looking at these changes. Some of the concerns Mr Kaine raised have been addressed by the proposal by the commissioner, but there are still lots of important issues there.

In assessing this proposal for electronic voting, I think it is necessary to see whether it can provide the same benefits as the current paper voting system. Voting systems must be transparent and open to scrutiny in order to assure the public that their votes are counted accurately and reliably. There must be no opportunity for interference in the casting or counting of votes. Voting systems must also ensure that voters can cast their votes in privacy and that their votes can be kept secret.

I accept that there is a potential for electronic voting and vote counting to meet those criteria. I am aware that manual vote counting can be a very arduous process, with piles of ballot papers having to be manually sorted and counted. The distribution of preferences can be particularly difficult, with piles of ballot papers having to be regularly reshuffled into different piles for recounting.

I can understand the desire by the Electoral Commissioner to simplify this process and reduce the chance of error. However, at least the ballot papers are solid and can be observed by scrutineers and there is a physical trail by which votes can be tracked. If we moved to electronic voting it would be much harder to see these votes physically as they would be just electronic data inside a computer.

The potential for electronic votes to be interfered with by someone who gets access to the relevant computer is quite high and could be harder to detect. We all know about the ability of computer hackers to get into and corrupt what are supposed to be secure computer systems and we certainly do not want this to happen to our elections. The problems that arose with the use of electronic voting in the recent US presidential elections should also be examined for any lessons for the ACT.

The proposal to extend electronic voting to the Internet raises the dangers of interference to even higher levels. The Greens do not support Internet voting at this stage because its security is far from proven. There is also great difficulty in knowing whether the person who is voting at the other end of the computer terminal is whom they say they are or that they are not voting under some duress. In our current system, with people having to attend a polling place and vote on the spot, there is much less chance of interference in the casting of votes and there is the opportunity to check people's identity.

There is also the issue with electronic voting that not everyone in the community is familiar with using computers. There should never be any compulsion on people to use computer screens to cast their vote. There is also the issue that the look of the ballot paper would be changed in its transfer from paper to screen. It may not be possible to fit all the details from a usual ballot paper onto one computer screen, which would necessitate some rearrangement of the ballot paper or some scrolling mechanism. This change could have some effect on voting patterns, particularly for those candidates who are not on the first screen and people have to scroll the screen to get to them.

I have been briefed by the Electoral Commissioner on the details of this proposal and it appears that he is approaching this task in a thorough manner to ensure that all sides of politics will have confidence in the outcome and that the potential problems can be eliminated. At the same time, though, there is still a lot of work to be done in establishing a viable system and I do not want this process to be rushed. The outcomes of elections are too important for the future governance of the ACT for a badly conceived election process to be used.

I am happy to accept a trial of electronic voting at a small number of polling places at the next election and for the electronic counting of votes to see how it all works in practice. I am worried, however, that by amending the Electoral Act this bill will allow for electronic voting on a permanent basis before we really know whether it is acceptable. I will therefore be proposing some amendments in the detail stage putting a sunset clause on these changes so that electronic voting can only be used for the next election and for any recounts before the 2004 election.

I will also be seeking to write into the Electoral Act a requirement to establish an electoral reference committee to oversee the development of electronic voting and for a review to be undertaken after the 2001 election. Depending on the outcome of this review, the government will be able to put forward further amendments to the act to provide for electronic voting in future elections. I am prepared to accept electronic voting, but only as a trial at this stage.

MR SMYTH (Minister for Urban Services) (11.48): Mr Speaker, I thank members for their participation in this debate. It is an important issue. I am particularly grateful to those members who took the time to get a briefing from the commissioner. I understand that all the Labor members and Ms Tucker and Mr Rugendyke actually had a briefing. I think it clarified a lot of what has been said today.

In particular, some of the fears that Mr Kaine has raised would have been allayed, I believe, had he taken up the opportunity of receiving a briefing. I think we all agree with Mr Kaine that the system must be user friendly, that it must be transparent, that it must be fail-safe and that it must have integrity. Nobody doubts that we would design a system that would not have that as its basis. We will still have a choice. There is to be a trial. There will be paper ballots for those voters who wish to use them instead of the electronic means.

I would like to say that there will be no Internet or dial-in ability. It is proposed that in, for instance, a school hall there will be several computers which will be networked inside the school hall. They will not be connected to an external network. Disks will be used to save the information and those disks will be transported back to the commission. There will be no ability for a hacker to break into a network because there will not be a network, unless they are skilful enough to do it inside a polling booth which is open and can somehow hack into the screen there.

There will be a reference group. Ms Tucker talks about having a reference group. The government has already made that commitment to a reference group and that reference group will have on it representatives of the community as well as the parties and others who are interested to make sure that we do get this right. We have all looked with some amusement at what has happened recently in America. That is certainly not the intention of the government here; so the reference group will become a very important link.

Fundamentally, this amendment will not affect the operation of the Electoral Act 1992, which leaves the details of election operations to the Electoral Commissioner. I am not sure that it is appropriate for us to oversee what it is that the commissioner is up to. That act actually establishes his independence so that elections can be run with confidence, free of political interference. The government will retain the integrity and remains dedicated to the integrity of the act to ensure the independence of the commissioner.

There is more that I could say, Mr Speaker. This bill is an endeavour to make voting better and to make voting more efficient. Something like 4½ million Australians put in a Tattslotto entry each weekend. We understand the technologies and we understand the systems. Australians like using technology and innovation. If we can improve the system so that we do not have the triennial wait of days, weeks or months before we get a decision, that people can have greater confidence in how the vote has been taken and counted and that, in the instance where a member resigns and there is a replacement to be called upon, the replacement can be brought forward quickly, we should do so.

This bill is about adding to the system, not taking away or deleting from the system. I thank members for their support for the bill. Ms Tucker has indicated to the government that she does have some amendments that are not ready. Once the bill is agreed to in principle, further consideration of it will be adjourned. Again, I thank members for their participation in this debate.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1.

Debate (on motion by **Ms Tucker**) adjourned to the next sitting.

DOMESTIC ANIMALS BILL 2000.

[COGNATE BILL:

ANIMAL WELFARE AMENDMENT BILL 2000]

Debate resumed from 7 September 2000, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this bill concurrently with the Animal Welfare Amendment Bill 2000? There being no objection, that course will be followed. I remind members that in debating executive business order of the day No 4 they may also address their remarks to executive business order of the day No 5.

MR CORBELL (11.53): Mr Speaker, these two bills provide for what can only be described as a significant overhaul of the territory's domestic animal legislation and certain elements of the territory's animal welfare legislation. Perhaps one of the great things about this place is that as well as debating weighty issues of the territory such as health, education and planning we also get to deal with issues to do with nuisance animals. This legislation provides for important changes to issues relating to the proper control and supervision of domestic animals, the exercise of animals, the protection of animals and the protection of human beings from animals which are a nuisance.

There has been a lot of discussion and comment from the community about this bill. Perhaps the most controversial element of the SCAMP package, as it has been called by the government, relates to tail docking. I think it is unfortunate that in many respects that provision is overshadowed by many of the other more significant changes that are outlined in the legislation.

I would like to place on the record, as I have publicly, that the Labor Party will be supporting the amendment that provides for banning in the ACT the practice of tail docking for cosmetic purposes. The Labor Party sees very little reason why the practice of tail docking should be permitted simply for the purposes of showing an animal in a show or some other form of competition.

Tail docking does not provide any useful purpose. It is essentially a cruel practice and it is not one that we in the territory should be supporting. For that reason, the Labor Party is very pleased to be able to support the proposed amendment to the Animal Welfare Act that deals with that practice. In saying that, it is important to recognise that tail docking can still occur for medical reasons—where a dog's tail is injured in some way as a result of accident or where there is some other good medical reason, as certified by a vet, that it should be docked.

The bill deals with many other issues relating to animal welfare. Importantly, it provides for how we deal with barking dogs, how we deal with animal exercise and how we deal with a whole range of other matters. It is also important to note that the bill provides for new codes of practice of how people—I forget the exact terminology—should look after their dogs or cats. I think this is a welcome move.

The debate about cats, particularly in the territory, has an interesting history. I can recall a former Chief Minister of this place who was a very fond cat owner. During debates on this issue when the Labor Party was last in government, Ms Follett expressed her concern about any restrictions being placed on her domestic animals.

But that aside, it is important to make sure that we encourage domestic animal owners in the territory to adopt the very best practices in caring for their pet animals, and the measures that the government proposes as part of this package today are a welcome step in that direction. Perhaps they are the step that is needed, short of some sorts of mandatory measures outlined specifically in legislation. They are measures which we welcome.

Mr Speaker, the only other point I would like to make about this legislation is that we have seen over the past few years a continued increase in the incidence of concerns that people raise with members in this place about domestic animals being a nuisance in local communities. I would hope that the measures we are debating this morning will provide greater clarity to the officers of the territory who have to undertake the work of regulating issues such as nuisance animals in our community.

I hope that the minor disagreement that we have with some elements of these bills will not overshadow the fact that what we have before us is a very welcome piece of legislation that, on the whole, very effectively addresses a whole range of issues which have been greatly outdated for many years. The Labor Party supports in principle the bills that the Assembly is debating. We will be supporting some amendments which have been foreshadowed by Ms Tucker and some amendments that have been foreshadowed by the government. I will deal with those in the detail stage.

MS TUCKER (11.59): The strategic companion animal management package, of which the Domestic Animals Bill and the Animal Welfare Amendment Bill are a part, is a very significant initiative of the government. I would like to congratulate the government for pursuing this important reform of the ACT's domestic animal legislation and for introducing some significant animal welfare initiatives. The government developed this package with the release last year of an exposure draft of the proposed changes for public comment.

There is no doubt that cats and dogs form an important part of many people's daily life, but for others they can be a nuisance and they can impact negatively on other animals and the environment more generally. In developing legislation to control cats and dogs there will always have to be a balance between the rights and responsibilities of the pet owner, the welfare needs of the animals, the rights of other people to not be disturbed by animal activity and the need to protect the environment. The strategic companion animal management package goes a long way to finding this balance and it is certainly an improvement on the legislation it replaces.

Some features of the package should be noted. The requirement for dogs and cats to be de-sexed unless the owner has a permit will hopefully bring down the number of unwanted cats and dogs in the ACT and the need to put down such animals. The requirement for domestic animals to have some form of identification will help to unite animals with their owners and reduce the numbers of stray animals that have to be put down.

I might just tell a little story about how contentious this is. One day when driving to work I noticed a big sticker on the back of a car that said, "De-sex the Assembly: leave the dogs alone." I found that quite amusing and it did make me realise that people felt very passionately about this issue.

MR SPEAKER: It's been done already, Miss Tucker.

MS TUCKER: Really—there you go. Not for everyone, I suspect. The provision in the Domestic Animals Bill for a cat curfew and the declaration of areas in which cats are banned sets a good framework for action to reduce the impact of cats on native wildlife, although it will be interesting to see how this can be implemented in practice.

I will be supporting these two bills and I will be supporting the government's amendments. In the detail stage I will be putting up quite a few amendments to the Domestic Animals Bill to highlight various parts of the bill which I believe could be better drafted. Some of them are minor but if we are passing a significant legislative package then I think we should try to get it right first time. I will raise later a few animal welfare issues that I do not think have been fully addressed in this bill.

MR RUGENDYKE (12.02): Overall there are some worthy aspects to these bills that I am pleased to support. The aspects of the bill that relate to the way we handle dangerous dogs and nuisance dogs are very good. But it does appear that we have gone over the top in some areas. For example, we can no longer take our dog to the lake for a swim. We cannot take our dog with us to watch the kids play football. If we do so it will cost us a thousand bucks. We have got to pick up the dog poo—personally I think it is probably worth a hundred bucks to leave it there, but never mind.

The people of Tharwa are not allowed to walk their dogs near the Murrumbidgee River, and that seems to be a bit over the top. They have to write to the Conservator of Flora and Fauna. Gee whiz! You have to leave your dog on a leash. In some places that is probably seen to be fairly over the top. I would be interested to know how you manage to corral your cat and confine it to your premises. It is interesting to note that we have to have our dogs and cats de-sexed. There is probably a penalty as well for not doing that. That might be or might not be fair enough.

The bill also will bring into line people who that claim to be dog breeders. There will be a regime to make sure they are registered and so on. I worry about the impact on some people such as pensioners, whose only joy in life is their pets. It might be quite onerous for some people to keep up with the things they have to do to make sure they are acting legally. They have to write to this person, they have to write to that person and they have to register their animals annually. I therefore worry that some of the pensioners in our town will be severely disadvantaged by this legislation.

Maybe when we go through the detail stage some of these problems will be sorted out by the various amendments that have been tabled this morning. I will support this bill in principle and listen closely to the debate on the various amendments.

MR SMYTH (Minister for Urban Services) (12.05), in reply: Mr Speaker, I thank the Assembly for their in-principle agreement to the legislation. The intention of this important set of bills and codes is to hopefully make better the position of the people of the ACT as well as the animal population.

Mr Corbell said that we all get complaints. This legislation will address the current weaknesses. I believe it will improve the way that we handle complaints, without fuelling neighbourhood disputes. What I do not want to put in place are systems that allow people to escalate neighbourhood disputes and use an animal as a weapon against a neighbour. I think we have a balance in the bill which will ensure that people are not caused additional grief. Mr Corbell indicated his support for the codes, the charter for responsible dog ownership and the charter for responsible cat ownership, and I welcome Labor's support on that.

This government has always said that it believes education is far better than regulation and enforcement. What we always endeavour to do is make sure that we educate and alert people as to what is the best way to be a law abiding citizen and what is the best way to benefit from where they live. These codes as well as the cat management strategy form a very important part of our efforts to make sure that this does work.

Ms Tucker spoke about de-sexing. It would be true to say that Domestic Animal Services and the RSPCA between them euthanase thousands and thousands of dogs and cats each year because people do not want to care for them any longer. We are making sure that those who wish to breed and those who wish to have an animal that is entire have those rights. What we are doing is relieving animals of agony and suffering. We are also taking away a burden from the community and that is very important.

Ms Tucker spoke about identification, and that is also important. What we want to do is find out who owns these animals and get them back to them as quickly as we can. This will alleviate the stress and the worry for everyone and it will make for a better city. Animals should not be roaming the streets.

Mr Rugendyke raised concerns about having to keep your dog on a lead all the time. There are 1,156 gazetted places you can go to in the ACT to exercise your dog off lead. I think there is ample space for us to live in harmony. There are ample opportunities for people to exercise their dogs off lead. We constantly review those places and we will add to them as the suburbs expand.

Mr Rugendyke quizzically raised the issue of cat curfews and how you would restrain a cat. A lot of people do. The recent winner of the housing tenant of the month, I think from Florey, actually built a run in the back of their home for their cat. That cat is able to go in and out of the house at any time. During the day it is allowed to roam free and at night they put it in the run. This is a wonderful example of somebody who loves and cares for their cat but also loves and enjoys the bush environment around their home, particularly the bird life and the bird song in the morning. They found a way to live in harmony and many of us can do that.

We do not want the legislation to have an impact on pensioners or those who are less advantaged. When these bills come into force they will apply only to animals that are born after the date of enactment, so there is no intention to disadvantage those who currently own a dog.

I thank members for their support. I also thank the scrutiny of bills committee for their report. They made some very useful suggestions, the majority of which we have included in the amendments that have been circulated in my name. I would thank Ms Tucker for her amendments. It would have been nice to have got them a little bit earlier for us to work on. But there are some useful amendments, some of which mirror some of my amendments and some of which we will disagree with because we do not believe they will lead to a better system.

One of the things that I do not want to do is enact legislation that fuels neighbourhood disputes, that enables us to use our pets against one another, and will I speak later to some of Ms Tucker's amendments which relate to this matter.

This legislation is a step forward. This, again, is an example of the ACT leading the way in Australia in how we look after our domestic animals. I think it is something we should be proud of.

Ms Tucker spoke about the consultation. It has taken a long time to put this legislation together. I give credit to those who have had a huge amount to do with what is now before us. I refer to the previous political holders of my position who started this process. Also, I acknowledge the way in which staff from the department, who have had a big say in this and some of whom are in the chamber today, went about putting this package together. They have consulted in a very fruitful way and I thank them for all the good work that they do.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 6, by leave, taken together and agreed to.

Clause 7.

MR SMYTH (Minister for Urban Services) (12.11): Mr Speaker, I ask for leave to move amendments Nos 1 to 3 circulated in my name together.

Leave granted.

MR SMYTH: I move:

> No 1—
> Page 3, line 17, paragraph (1) (b), insert at the end of the paragraph "if the applicant is disqualified from keeping the dog, any dog, a dog of that kind or any animal".
>
> No 2—
> Page 3, line 17, after subclause (1) insert the following new note:
> "*Note* Section 72 deals with the disqualification of a person from keeping an animal.".
>
> No 3—
> Page 3, line 18, subclause (2), omit the subclause.

I present an explanatory memorandum. Clause 7 relates to the registration approval or refusal process. The amendments make it clear that the only reason that the registrar may refuse to register a dog is if the proposed keeper has been disqualified by a court order from keeping such a dog.

Amendments agreed to.

Clause 7, as amended, agreed to.

Clauses 8 to 12, by leave, taken together and agreed to.

Clause 13.

MR SMYTH (Minister for Urban Services) (12.12): I move:

> No 4—
> Page 5, line 8, insert the following new subclause:
> "**(2)** If the registered keeper of a dog is disqualified from keeping the dog, any dog, a dog of that kind or any animal, the registrar must cancel the registration of the dog.
> *Note* Section 72 deals with the disqualification of a person from keeping an animal.".

Clause 13 deals with the cancellation of a registration. The amendment seeks to provide that registration can be cancelled if the registered keeper of the dog is disqualified from the keeping of that dog. This will bring the bill into line with the amendments that we have just made to clause 7.

Amendment agreed to.

Clause 13, as amended, agreed to.

Clause 14.

MS TUCKER (12.13): I move amendment No 1 circulated in my name:

> No 1—
> Page 5, line 14, subclause (2), omit the subclause, substitute the following subclause:
> "**(2)** Paragraph (1) (a) does not apply if—
> (a) the dog is under 56 days old; or
> (b) the dog has been kept by the person for less than 28 days; or
> (c) the person has been resident in the Territory for less than 28 days.
> **(3)** Paragraph (1) (b) does not apply if the registered keeper is unable to care for the dog and the person is caring for the dog on a temporary basis.".

Under this clause a dog has to be registered if it is over eight weeks old or has been kept by a person for more than 28 days. I can accept that people should be obliged to register their dogs as soon as practicable but I am concerned that 28 days or four weeks is a relatively short time. This period might be okay if you had just bought a dog and need to register it. But the situation has been brought to my attention where the 28-day period may not be appropriate. If someone went on holidays or was ill and gave their dog to a friend to look after on a temporary basis for a period that went for more than 28 days then the person caring for the dog would, according to this clause, have to register the dog in their name after 28 days and then transfer the registration back to the real owner when that person was again able to look after the dog. Transfer of registration in this case seems quite cumbersome and likely to be ineffective. Taking up Mr Rugendyke's point, perhaps pensioners or elderly people might be particularly affected by that.

I am therefore putting up this amendment which adds a new subsection (3) to allow a person to care for a dog for longer than 28 days without transferring the registration from the owner of the dog if the caring is on a temporary basis.

MR SMYTH (Minister for Urban Services) (12.14): The government will agree to the amendment. In fact, if it does not get up we have an amendment of our own that has a similar effect.

MR CORBELL (12.14): The Labor Party will be supporting Ms Tucker's amendment. She has highlighted a small but possible consequence of the government's current provisions in the bill. We believe it is appropriate to allow for that set of circumstances to be appropriately addressed in order that there not be an undue imposition on the people who would otherwise be affected.

Amendment agreed to.

Clause 14, as amended, agreed to.

Clauses 15 to 20, by leave, taken together and agreed to.

Clause 21.

MR SMYTH (Minister for Urban Services) (12.15): I move amendment No 6 circulated in my name:

No 6—
Page 8, line 29, after subclause (3), insert the following new subclause:
"**(4)** Subsection (2) does not limit the matters the registrar may consider.".

Clause 21 empowers the registrar to impose conditions on multiple dog licence holders. I think all members of the Assembly would be aware of instances where more than one dog next door can be a pain. The provision is amended to ensure that the registrar is not limited by the matters contained in subclause (2) when he is deciding whether or not to impose conditions on a multiple dog licence holder.

Amendment agreed to.

Clause 21, as amended, agreed to.

Clause 22.

MR SMYTH (Minister for Urban Services) (12.16) : I move amendment No 7 circulated in my name:

No 7—
Page 9, line 12, after subclause (3), insert the following new subclause:
"**(3A)** Subsection (3) does not limit the matters the registrar may consider.".

Clause 22 allows for a dangerous dog to be declared by the registrar. The provision has been amended to ensure that the registrar is not limited in the matters that are contained in subclause (3) in deciding whether to declare a dog dangerous.

Amendment agreed to.

MS TUCKER (12.17): I move amendment No 2 circulated in my name:

No 2—
Page 9, line 21, paragraph (5) (c), before "destroyed" insert "sold or".

This amendment fixes up what I hope is an error in the drafting. As the bill is currently drafted, where a dog is declared dangerous after it has been impounded the registrar must give the keeper of the dog a notice stating that the dog may be destroyed after seven days if the keeper does not apply for a dangerous dog licence. However, in clauses 68 and 69 of the bill the registrar is able to either destroy or sell a dangerous dog.

To be consistent, this clause should also say that a dog may be sold as an alternative to being destroyed, assuming that the buyer is willing to take on a dangerous dog. Of course, if no-one steps forward to buy the dog then the registrar has no choice but to destroy the dog. But it should be made clear that the option of sale does exist.

MR SMYTH (Minister for Urban Services) (12.18): The government agrees with the amendment.

Amendment agreed to.

Clause 22, as amended, agreed to.
Clauses 23 and 24, by leave, taken together and agreed to.
Clause 25.

MS TUCKER (12.18): I move amendment No 3 circulated in my name:

> No 3—
> Page 10, line 22, paragraph (2) (f), after "public" insert "or an animal".

This clause deals with the considerations that the registrar has to take into account in issuing a dangerous dog licence. One consideration is the likelihood of harm being caused to any member of the public but there is no mention of the harm that could be caused to other animals. From an animal welfare perspective, other animals should also be protected from dangerous dogs. This amendment makes clear that the likelihood of harm to other animals should be a consideration in granting a dangerous dog licence.

MR CORBELL (12.19): The Labor Party will be supporting this amendment, which highlights an important element in the context of complaints relating to dogs and the impact that they can have on other animals. Often this consideration is not properly addressed and this amendment provides for that circumstance.

MR SMYTH (Minister for Urban Services) (12.19): The government will be supportive of the amendment.

Amendment agreed to.

Clause 25, as amended, agreed to.
Clauses 26 to 32, by leave, taken together and agreed to.
Clause 33.

MR SMYTH (Minister for Urban Services) (12.20): I move amendment No 8 circulated in my name:

> No 8—
> Page 13, line 8, after subclause (5) insert the following new subclause:
> "**(5A)** Subsections (4) and (5) do not limit the matters the registrar may consider.

Clause 33 empowers the registrar to make a decision. What this amendment proposes is that subsections (4) and (5) do not limit the matters he will take into consideration when making that decision.

Amendment agreed to.

Clause 33, as amended, agreed to.

Clauses 34 to 39, by leave, taken together and agreed to.

Clause 40.

MS TUCKER (12.21): I move amendment No 4 circulated in my name:

> No 4—
> Page 15, line 21, after subclause (1), insert the following new subclause:
> "**(1A)** The Minister must, by a sign or signs, define each declared area.".

I will speak to this amendment and my amendment No 5 together because they relate to each other. Clause 40 is about dog exercise areas and clause 41 is about areas where dogs are prohibited. However, each clause has a different approach to the establishment of these areas. For exercise areas, the minister makes a declaration that is disallowable. However, for prohibited areas, the minister merely has to put up signs around the area. It would be preferable that there was a consistent approach to the establishment of these areas—that is, for the area to be declared by disallowable instrument and for signs to be erected.

My amendment in respect of exercise areas therefore requires the minister to erect signs around the area in addition to the current requirement to declare the area. Conversely, my amendment in respect of prohibited areas in clause 41 requires the minister to declare the area as well as to erect signs.

MR SMYTH (Minister for Urban Services) (12.22): Mr Speaker, I will speak to Ms Tucker's amendments Nos 4 and 5. Clause 40 calls for the erection of signs to prove that the area is an off lead area. There are 1,156 such areas. Assuming that at a minimum you would have two or three signs at each of those areas and that, on our assessment, some areas would need eight or more signs, you are talking somewhere in the vicinity of 2,500 to 3,000 signs as a minimum. Those signs cost approximately $200 each so you are talking close to half a million dollars for signage.

The other angle is that you are talking about another 3,000-odd signs that add to further visual pollution in the ACT. So on one hand we want to do something to define these areas but on the other hand we would be adding to the visual pollution and detracting from the bush capital aspect of Canberra.

This information is freely available. It is available from Domestic Animal Services, it is at public libraries and government shopfronts, and it is my intention that we get it up on the Net. I ask the Assembly whether this half a million dollars would be better spent on domestic animal issues rather than signage. There are far greater things we could do with that amount of money in this regard than putting up additional signs.

The government will also oppose Ms Tucker's amendment No 5. This amendment seeks to change the system for setting the areas in which dogs are prohibited. Sometimes we do that on a short-term basis. For instance, a function might be held in the Stromlo Forest and we will prohibit dogs from entering the area. A disallowable instrument may come to the Assembly and dogs will be prohibited for a certain period, which might be just for a weekend. The current system works reasonably well. I just wonder whether the

Assembly wants that level of oversight of the areas into which dogs are not allowed. The government will oppose both these amendments.

MR CORBELL (12.24): The Labor Party will not be supporting these amendments. The Labor Party agrees with the government's concern about the level of signage that would be required in relation to Ms Tucker's amendment No 4. Whilst I can appreciate Ms Tucker's desire to ensure that people fully understand what an area is designated for, I think the current system does work adequately and the maintenance of the number of signs that would be required would present more problems than would be solved.

Equally, in relation to amendment No 5, I do not know of any reason why the current system is not working well at the moment. If, however, it is proven to be not working effectively, of course I would certainly welcome the capacity for that provision to be reviewed and for possibly the act to be amended. But, at the moment, I have had no indication that the system is not working adequately, effectively and efficiently and I see no reason to legislate when clearly this is not an issue which needs to be addressed.

MS TUCKER (12.25): I understand that these amendments are not going to supported. However, I do not agree that the system is working that well at the moment. It is interesting to me that many people do not even know there are dog exercise areas; or, if they do, they do not know where they are. You obviously would not have to put up eight signs. You have taken the extreme example.

Mr Smyth: But some of them are quite long and thin and you would need to put up signs at both ends.

MS TUCKER: I think it is about raising awareness. I accept what the Assembly is saying but I do not think you would have to have all of the signs and therefore the cost that you are envisaging. If you do not want to support this proposal then at least you should be aware that there needs to be more publicity about where these areas are. You could just have one sign.

Mr Rugendyke: Hear, hear!

MS TUCKER: Mr Rugendyke agrees. You can alert the community—

Mr Rugendyke: If I knew where they were I would take my dog to them.

MS TUCKER: Mr Rugendyke does not know. If he did he would take his dog to those areas. Even though my amendments are not being supported, I think there is an issue here. There is a need for the government to put up some signage, particularly as some people with dogs are feeling quite defensive as a result of this legislation. We need to communicate more vigorously that there are areas in which dogs can run free.

Amendment negatived.

Clause 40 agreed to.

Clause 41 agreed to.

Clause 42.

MS TUCKER (12.27): I seek leave to move my amendments Nos 6 and 7 together as they relate to the same clause.

Leave granted.

MS TUCKER: I move:

> No 6—
> Page 16, line 30, paragraph (4) (b), after "food" insert "if the fireplace or appliance is being used by someone else".
>
> No 7—
> Page 17, line 2, paragraph (4) (c), after "*1976*" insert "and a person is in the area".

Clause 42 defines areas where dogs are automatically prohibited from being taken, such as the grounds of childcare centres and schools unless permission is obtained, and playing fields where sport is being conducted. Dogs are also prohibited from being taken within 10 metres of children's play equipment if there are children playing on it.

It appears that this section has been included in the bill to protect children from being bitten by dogs in situations where dogs might get excited or scared by the unpredictable actions of groups of children around them, and this seems quite reasonable. However the section goes on to ban dogs from within 10 metres of any public fireplace or barbecue and any swimming area around Canberra's lakes. The concern has been raised with me that this is too restrictive and would prevent owners taking their dogs on a picnic or to the lake.

If public safety is the main issue here then taking a dog to a barbecue or swimming area should not be a problem if there is no-one else about that could be disturbed by the dog's presence. It could be argued that there may also be a public health issue because dogs might urinate or defecate in these areas, but if this were the case why are dogs allowed in other places like playing fields and playgrounds when people are not around? Besides, this bill now introduces a requirement for dog owners to pick up and dispose of their dogs' faeces, so the public health risk from this source is diminished anyway.

The bill needs to be consistent about where dogs are prohibited from being taken. Therefore, I have put up these amendments to prohibit dogs from barbecue and swimming areas only while other people are using these facilities.

MR SMYTH (Minister for Urban Services) (12.29): The government will oppose both amendments Nos 6 and 7. The dilemma is that you could say, "Okay, I am having a barbecue, there is nobody at the barbecue so I will bring my dog." What happens if somebody turns up five minutes later and objects? It makes the enforcement of this very difficult for the officers.

As Ms Tucker rightly pointed out, this also goes to a question of public health issues. Certainly we will attempt to get owners to clean up faeces after their dog has made the deposit. But the removal of urine at public places may well nigh be impossible. The same

logic would apply to a swimming place. It might be okay when you turn up on your own, when you and your family are the only persons there with your dog. But what if another family turns up? I think this would lead to disputes, to situations of "I was here first, you can't use this." "But this is a public place, I want to use it." We should avoid that. There are ample places for people to take their dogs. They can have barbecues at home. There are ample places for dogs to be allowed to swim. It is appropriate that dogs be prohibited from public defined places.

MR CORBELL (12.30): The Labor Party will not be supporting Ms Tucker's amendments. I think the point has been well made by the minister that you need to have a clear, concise framework for enforcement. The amendments proposed by Ms Tucker could create circumstances of uncertainty and difficulty in enforcement, so we will not be supporting them.

MS TUCKER (12.30): I did not hear either Mr Corbell or Mr Smyth respond to the fact that the dogs are prohibited within 10 metres of children's play equipment if there are children playing on it. You have that kind of qualification already on one aspect, so I do not quite see that your arguments are consistent.

Amendments negatived.

Clause 42 agreed to.

Clauses 43 and 44, by leave, taken together and agreed to.

Clause 45.

MR SMYTH (Minister for Urban Services) (12.31): I move amendment No 9 circulated in my name:

> No 9—
> Page 19, line 6, after subclause (5) insert the following new subclause:
> "**(6)** In a prosecution for an offence against subsection (1) or (3), it is a defence if the defendant proves that the defendant took reasonable steps to prevent a contravention of the subsection.".

Mr Speaker, I might speak to clauses 45 and 48. These clauses address offence provisions relating to restraining dogs in various circumstances. My amendment seeks to bring these two offence provisions in line with clause 44.

Amendment agreed to.

Clause 45, as amended, agreed to.

Clauses 46 and 47, by leave, taken together and agreed to.

Clause 48.

MR SMYTH (Minister for Urban Services) (12.32): I move amendment No 10 standing in my name:

No 10—
Page 20, line 9, after subclause (4) insert the following new subclause:
"**(5)** In a prosecution for an offence against subsection (1) or (2), it is a defence if the defendant proves that the defendant took reasonable steps to prevent a contravention of the subsection.".

As I have already said, Mr Speaker, the amendments seek to make sure that clauses, 44, 45 and 48 are in line.

Amendment agreed to.

Clause 48, as amended, agreed to.

Clause 49 agreed to.

Clause 50.

MS TUCKER (12.33): I move amendment No 8 circulated in my name:

No 8—
Page 20, line 24, subclause (3), omit the subclause, substitute the following subclause:
"**(3)** In a prosecution for an offence against subsection (2), it is a defence if—
(a) the defendant establishes that the person or animal provoked the dog; or
(b) the person was attacked because the dog came to the aid of its keeper, or another person or animal that the dog could reasonably be expected to protect; or
(c) if the attack or harassment was on premises occupied by the defendant, the defendant establishes that—
(i) the person was on the premises without reasonable excuse; or
(ii) the person failed to take reasonable care for his or her own safety.".

Clause 50 relates to the offence of a keeper allowing a dog to attack a person or animal. Various defences are allowed for keepers against this offence, in keeping with the reasonable expectations of how a dog is likely to behave if put in a situation where the dog would want to defend itself against some perceived threat from the victim. A defence is allowed that the victim was attacked because the dog came to the aid of its keeper. However, there are other people that a dog could be reasonably expected to protect, such as the keeper's family. A dog could also be expected to come to the aid of other animals, such as its own offspring. I have therefore included this situation as an extra defence and, in the process, the list of defences has been rearranged.

MR CORBELL (12.34): This small minor amendment appears to cover the range of circumstances that could reasonably be expected and, as such, the Labor Party will be supporting it.

MR SMYTH (Minister for Urban Services) (12.34): The government will be supporting the amendment.

Amendment agreed to.

Clause 50, as amended, agreed to.

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

DISABILITY SERVICES

MR MOORE (Minister for Health, Housing and Community Care): Mr Speaker, I seek leave to table a letter of clarification that I circulated earlier to members about a statement I made during the debate on disability services on 18 October.

Leave granted.

MR MOORE: I thank members.

Sitting suspended from 12.36 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Bruce Stadium Redevelopment

MR STANHOPE: My question is to the Chief Minister. The Auditor-General's report into the Bruce Stadium redevelopment refers to legal advice to the effect that there were several breaches of the law involving the expenditure of unappropriated funds and overnight loans to balance the books. The auditor found that cabinet was kept informed and participated in decision-making through its consideration of nine cabinet submissions related to the project. Can the Chief Minister explain what legal advice he gave to the cabinet in his role as Attorney-General in relation to the unauthorised expenditure and the overnight loans? If he gave no legal advice to cabinet, why not?

MR HUMPHRIES: Mr Speaker, I thank Mr Stanhope for my maiden question as Chief Minister. Really it relates to the Attorney-General anyway, so perhaps it was not my maiden question. Mr Speaker, I think this question has been covered before and I suspect that I will repeat the answer I have given before. It is not the usual course of action for the Attorney-General to table legal advice or give a legal opinion in the course of sitting in cabinet meetings. The Attorney-General will provide advice generally on legal issues in the nature of advice that comes off the cuff. In the present cabinet there are two lawyers and it is quite possible for two lawyers to give advice to cabinet on that basis.

In respect of the matters to which Mr Stanhope has referred regarding the Bruce Stadium redevelopment, there was no proposal put to cabinet that said, "We are proposing to conduct some overnight loans which are a bit shaky on the legality front. Can you give us some advice on this subject, please, Mr Attorney-General?" That obviously was never the case. Indeed, it was the intention of not only me as Attorney-General but of all the members of cabinet, including the then Chief Minister, that this process should be employed appropriately and that there should be, obviously, it goes without saying, a full operation within the spirit and letter of the law.

I have made it clear, Mr Speaker, that I accept the view that the decisions or omissions which led to some of the transactions being outside the law were matters that occurred not at the direction or behest of any member of cabinet, and not at the direction or behest of any senior member of the public service, but rather as a result of omission at the lower levels of the public service. I do not attach any blame for that. The completion of a single instrument under the Financial Management Act would have remedied that problem, on my advice—

Mr Stanhope: You are sticking to the defence. Nothing has changed.

MR HUMPHRIES: Mr Speaker, if those opposite wish to pursue that matter, they have the comments of the Auditor-General on the record. I remain of the view that all parties concerned in this matter acted with the best of intentions. There is no evidence in the auditor's report that anybody did not act with those sorts of intentions. I think that is an appropriate reflection on the course of this matter.

MR STANHOPE: I have a supplementary question. The Auditor-General found that the cabinet submission on which the decision to proceed with the redevelopment of Bruce Stadium was made was seriously inaccurate and incomplete. It had not been circulated beyond the former Chief Minister's Department and office. Can the Chief Minister tell us why, in his former role as Attorney-General and first law officer, he did not ask for time to consider the implications of the cabinet submission and to seek the advice of his department?

MR HUMPHRIES: Mr Speaker, there are many submissions which come before cabinet which are not circulated to every department. That has been the case under this government. Undoubtedly it was the case under the previous government. I do not think anyone would imagine for an instant that every decision needs to be run past the Department of Justice and Community Safety.

Mr Stanhope: This wasn't some tiny little decision, Chief Minister.

MR HUMPHRIES: It was a decision which had been carefully canvassed beforehand.

Mr Stanhope: By whom?

MR HUMPHRIES: My recollection is that the decision that Mr Stanhope is referring to was a decision which had been previously referred to in terms of other cabinet submissions which had been made in the period before that point. It was not the first decision on this matter that went before cabinet. It may have been inaccurate and incomplete. That is what the Auditor-General has found. He also found, if you recall, Mr Stanhope, that the cabinet acted properly in light of the information laid before it.

Mr Stanhope: The totally inadequate information. It had none.

MR HUMPHRIES: I know that you would like to find that somehow the documents were so glaringly inadequate that members of the cabinet should have realised that something was wrong, but that is a matter that the Auditor-General actually commented on. He said that it was within the competence of cabinet to make the decisions it did based on the submissions before it. He did not say, unfortunately for your submission

today, that the documents were so woefully and obviously inadequate that the cabinet could not reasonably have tried to make a decision on the basis of them. He did not say that. I know you would like to make the interpretation that that is what he said, but he didn't say that. In the circumstances, Mr Speaker, cabinet did make a decision and there was an appropriate decision to make.

I am sure that Mr Kaine, who was the Assistant Treasurer at the time, would also attest to the fact that the process did not always at that stage involve reference to advice either from me as Attorney-General or from the department unless it was considered that there was some need for such advice. If it was considered that there was a need for such advice it would normally come from my department rather than from me personally, sitting around the cabinet table.

Urban Open Space

MR HIRD: My question is to the Minister for Urban Services, Mr Smyth. I refer to a recent letterbox drop conducted by the Labor Party in which a leaflet entitled "The Government's Secret Plans for your Suburb" was placed in people's mail boxes. Indeed, yesterday Mr Corbell was pictured in the *Canberra Times* at a Save Open Spaces rally at the Curtin horse paddocks calling on the government to save open spaces. Minister, are the claims true that the government has a secret sell-off plan and that the Curtin horse paddocks are open space to be sold off?

MR SMYTH: I thank Mr Hird for the question, which was a good question.

Mr Stanhope: I take a point of order, Mr Speaker. I understood that the Chief Minister had taken all responsibility for infill matters and the John Dedman Parkway and that Mr Smyth was not to be trusted to handle any of those issues any further. Perhaps the question should have gone to the Chief Minister.

MR SPEAKER: Order! There is no point of order. The question was asked of Mr Smyth and Mr Smyth is going to answer it.

MR SMYTH: Mr Speaker, I can understand Mr Stanhope's embarrassment. We all remember Mr Stanhope's opening remarks as Leader of the Opposition when he said, "We are not going to be like the old Labor government. We are going to be new and fresh. We are going to be out there." I would be embarrassed, too, Mr Stanhope.

Mr Speaker, I think that we all agree that we live in a truly beautiful city and that we are lucky and grateful for that. Where else in the world can you walk out your back door and encounter the environment that you can in Canberra of tree-studded parcels of land protected from development within five minutes of the centre of the city? You cannot do that in Sydney; you can do it in Canberra.

For the record, 82 per cent of the land in the ACT is not zoned for development for residential, commercial or community purposes.

Mr Corbell: Most of it is in national parks.

MR SMYTH: That is almost 200,000 hectares.

Mr Hargreaves: And the other bit Ossie owns.

Mr Quinlan: It is also a non-number, Mr Smyth.

MR SPEAKER: Order! I will have to ask the minister to repeat all of this answer if I cannot hear it.

MR SMYTH: Urban open space, about which there has been some debate lately, accounts for about 2 per cent of the land of the ACT, about 5,000 hectares. The majority of the land is conserved in conservation areas. That includes the parcels of land that the previous planning and environment minister put aside and that I have put aside and this government has put aside in places, such as the shifting of the Gungahlin town centre, saying that we will not develop the Jerrabomberra town centre and protecting yellow box/red gum.

Our tag of the bush capital is well deserved and this government believes that it is one that is worthy of retention. Part of the retention is making sure that we keep it for the future. What we need to do now is to develop a sustainable city. That is why this government has changed the rules made under Labor on how we build our new suburbs in terms of how the streetscape should look.

Labor wanted narrow public streetscapes and maximum room for development. We have changed the rules so that, much more in keeping with our park-like city, we will have things such as wider verges, room for big trees to grow and extra space for footpaths. That is why this government has said that only good quality and sustainable developments will be accepted, that they must take into account the surroundings and the impact on the environment.

Labor's planning vision so far has been based on making you afraid of the future. Here are some of the facts that Labor hopes you will not find if it scares you with enough misinformation. Let us start with the recent letterbox drop claiming that the government has a secret sell-off plan for this land. It was so secret that the government gave Labor the documents and none of them announced any sell-off. In fact, any land being considered for sale is put out in the public land release program document each year, and it has been out since June of this year. That is how Mr Corbell knows that the Curtin horse paddocks might be considered in the future.

I need to remind people what the Territory Plan says about broadacre. The classification "broadacre" and the use for horse paddocks were put there by Labor. That is right; it is not designated urban open space. Labor made that decision, not us, and it is a little hypocritical of them to criticise us now. It was Labor that developed the Territory Plan in 1993 and it said in that document that the Curtin horse paddocks should be zoned broadacre. Under its broadacre land use policies Labor said:

> Broadacre areas may also provide a land bank for future urban development. Consequently it is important that non-urban development does not adversely impact on the future use of land which may be required for urban purposes.

That is from Labor's Territory Plan. Under the objectives of broadacre use, Labor's document says that one of the objectives of that land was "to ensure, where appropriate, that development and the use of the land does not undermine the future use of land which may be required for urban and other purposes". In other words, when Bill Wood was Labor's planning minister, Labor set this land aside for future infill.

Through you, Mr Speaker, my question to Mr Corbell is: where was the photo of nice trees that appeared in the *Canberra Times* actually taken? It was not taken in the horse paddocks, was it? No, it was not. It was in fact taken in a much prettier piece of land which is tree-studded and is not being considered for development. It is next to the horse paddocks, but it on the other side of the big stormwater drain known as Yarralumla Creek. Mr Corbell knows that and he knows that it is not being considered for development, because he was told about that in the FOI document. I will read the letter; Mr Corbell has it. It says:

> All blocks marked as being overland flow paths, open channels, cut-off drains or Yarralumla Creek must be reserved for drainage purposes. The blocks marked as having an underground pipe will require an easement over the pipe if considered suitable for sale.

That is another document that Mr Corbell has, Mr Speaker. I wonder whether Mr Corbell bothered to point out to the Save Open Spaces rally that, by his own party's definition, the horse paddocks they want to save are not urban open space. I doubt it. In fact, in yesterday's *Canberra Times* Mr Corbell was calling on the government to save open spaces with a definite implication of things such as the horse paddocks. Shame on you, Mr Corbell! That is just another example of how Labor is happy to mislead the public.

One more point in relation to the secret government sell-off plan that Mr Corbell has and the misleading of people is the document that Mr Corbell has been using to scare the residents of Weston Creek.

Mr Corbell: I take a point of order, Mr Speaker. The minister has claimed that I have misled people, and I think that is quite important.

Mr Humphries: Didn't you say that Labor has misled them.

MR SMYTH: No, I said "Labor". I did not name Mr Corbell.

Mr Corbell: No, he said I did, Mr Speaker. Get him to withdraw it, Mr Speaker.

MR SPEAKER: I must uphold the point of order. I think that you did suggest that Mr Corbell did it. If you meant Labor, that is fine; but you will have to correct it, Mr Smyth.

MR SMYTH: I said, and correctly, "another example of Labor being only too happy to mislead the public". Here is the proof. This is the document that Mr Corbell tabled at the Weston Creek Community Council meeting the other night. It is one of the documents that he received. What he did not tell people was that he received a second document which has markings on it that indicate where these overland flows are and where the

pipes are. It also has a yes or no column showing where no decisions have been made. He is willing to put out one document, but he only ever tells half the story.

Let me go on, Mr Speaker. Labor says that this government is failing when it comes to planning, but the Territory Plan that this city is being built on was put in place by Labor—by Bill Wood, the former minister. You would almost have to wonder whether this was about preselection.

Labor went to the last election, as did the Greens, supporting urban infill. Labor says that the ACT government has plans to convert all open space to infill. The Chief Minister has ruled that out. Since the Territory Plan's inception in 1993, there have been only five variations to convert urban open space to other uses and four of those were agreed to by Mr Corbell.

Mr Corbell: What about Lake Tuggeranong? What about Lake Ginninderra?

MR SPEAKER: Order, Mr Corbell! You will have a chance to ask a question, perhaps.

Mr Corbell: It is a very long answer, Mr Speaker.

MR SPEAKER: The minister is just winding up.

MR SMYTH: A further mistake that Labor has made is that Mr Corbell has claimed that the government is only concerned with revenue from land sales. From 1991 to 1995, Labor released 11,000 blocks in an attempt to balance their budget, and in doing so drove house prices down by about 30 per cent. Compare that with the 3,000 blocks released under the Liberal government from 1995 to the present, and we have managed to balance the books with good financial management.

Labor says that this government is letting dual occupancies take over our suburbs. From 1992 to 1995, Labor approved 637 dual occupancies. The Liberal government has approved only 417—

Mr Corbell: How long is this answer going to go on for, Mr Speaker?

MR SPEAKER: Minister, wind up, please; this answer is getting too long.

Mr Berry: I take a point of order, Mr Speaker. Are twitching and squirming part of an answer?

MR SPEAKER: Sit down, otherwise you will be twitching and squirming.

MR SMYTH: You can tell that they have been stung. Mr Speaker, I could go on. Perhaps I should get up in the adjournment debate and finish off.

Mr Speaker, people should have a choice about where they live. People should have the opportunity to remain in their suburbs when they wish to retire and change the style of accommodation they have. This government will provide for that.

Growth of Canberra's Private Sector

MR QUINLAN: Mr Speaker, my question is directed to the Treasurer, and may I first, sir, congratulate you on the endorsement you received from Peter Reith at around about lunchtime today.

Recently published Australian Bureau of Statistics figures show that, over the last n years, the ACT's State Final Demand originating from the public sector has grown as a proportion of State Final Demand. The Treasurer's own briefing to the Select Committee on Budget Parameters and Principles includes the following:

> A major driver of growth in State Final Demand in the ACT has been the Commonwealth government expenditure. Notwithstanding the diversification of the ACT economy and the growth of the private sector, the government still represents well over half of State Final Demand. While many private companies have benefited from outsourcing by the Commonwealth government, most remain dependent on the Commonwealth for their core activity.

Does this render continued claims by the government that you now lead that Canberra has become a private sector town nothing more than exaggeration and propaganda or, in Mr Smyth's parlance, deliberate misinformation?

MR HUMPHRIES: No, Mr Speaker, it does not amount to that. What it amounts to is acknowledgment that the ACT's economy is now far more intimately tied up with the success or failure of the private sector than was the case just 10 years ago. The railing that we hear from Labor about this matter continues to amaze me. It really make me wonder just what kind of commitment we can expect from the Labor Party with respect to the operation of the private sector should it be fortunate enough to win government at next year's election.

I have to say, Mr Speaker, that I look across to those opposite and I do not see anybody with any involvement whatever in the private sector. I do not recall Mr Quinlan having a job in the private sector—

Mr Quinlan: Six years of it, working for myself.

MR HUMPHRIES: Six years out of how many?

Mr Quinlan: Before I came here. The last six years.

MR HUMPHRIES: You were with Actew, as I recall.

Mr Quinlan: No, no.

MR HUMPHRIES: If six years out of about, what, 150 years of experience on the opposition benches, amounts to a large amount of private sector experience that is great to hear. The fact is that, whether you take Mr Quinlan's view about this—that the public sector is a bit more important than the private sector—or my view, which is that the ACT's economy is now tied up with the success of the private sector, you cannot afford to ignore either.

A policy that seeks to denigrate the role of the private sector and downplay its importance, or fails to adequately provide incentives for the private sector to grow, would be a policy of great concern to the private sector of this town and therefore would be a problem for the creation of jobs in the future in this town. Mr Quinlan maintains that things such as 11.8 per cent growth in the ACT economy, and a 4.3 per cent unemployment rate, are mere matters of accident. They are nothing to do with what the government is doing; it just happens, as if people do not have any kind of influence on these things when they are sitting on government benches.

Mr Speaker, they are important. The public sector continues to play an important role in the future of this town, but the private sector's role is increasing as every year goes past. The comment that I was making to the committee—

Mr Quinlan: The private sector's proportion of State Final Demand is decreasing.

MR HUMPHRIES: If Mr Quinlan would be kind enough to hear me out. I heard his question without interruption and I hope he will hear my answer without interruption. If Mr Quinlan wants to have a debate about whether the importance of the private sector is 51 per cent as opposed to 49 per cent, then we can have that debate in some sterile environment. I am happy to have that kind of debate. The point that I am making is that we cannot afford to overlook that sector, and we need to have policies in place to grow the private sector in this town. We cannot afford, and do not need, policies to grow the public sector in the ACT. We do not have the capacity to do that. We have spent much of the last five years decreasing the size of the ACT public sector, which serves the ACT government.

I might remind Mr Quinlan, before he becomes too upset about that knowledge—and I know Mr Berry has become upset about it before—that the former Labor government spent tens of millions of dollars trying to do exactly the same thing. $17 million were put aside in the budget in, I think, 1993, to make sure that we reduced the size of the ACT public sector. We acknowledge that we cannot grow that sector, but we do not acknowledge that we can grow the private sector. We should be doing that.

State Final Demand is one measure of our success in doing that. In my view, Mr Speaker, the other indicators I have quoted today, such as employment growth and growth of the economy as a whole, are also valid indicators of the success of that philosophy of growing the private sector.

MR QUINLAN: Treasurer, has it come as something of a surprise to you that the rate of growth in the government proportion of State Final Demand has grown marginally faster since the election of the Carnell government, emphasising the blinding dishonesty of the claims of diversification that have been strongly trumpeted over the last few years?

MR HUMPHRIES: Mr Speaker, does Mr Quinlan seriously rise in this place to tell us that we do not have a diversified economy now, and that our economy is not more diversified than it was five to 10 years ago?

Mr Quinlan: It is still dependent on the Commonwealth government—your own words. Only you did not read them, did you?

MR HUMPHRIES: It is an extraordinary claim? The fact is that the ACT government is not responsible by itself for the role of the public sector in the ACT. Of course, Mr Quinlan will be aware that the ACT government accounts for a small minority of the public sector in the ACT. The majority of the public sector is the Commonwealth government.

The figures you are quoting suggest that there had been growth in the public sector—or at least growth in productivity in the public sector—and yet you have been spending the last four years, along with your colleagues, telling us how much the federal Liberal government is ripping the guts out of the city of Canberra.

Mr Berry: And the ACT.

MR HUMPHRIES: Mr Berry, to respond to your interjection, if the public sector is growing in the ACT, who has the credit for that? Is it the ACT or the Commonwealth government?

Mr Quinlan: So it is them, not you.

MR HUMPHRIES: Make up your mind.

Mr Stanhope: It is the tax office and the GST.

MR HUMPHRIES: Ah, the tax office; I see, Mr Speaker. So five years of growth in the public sector have been the responsibility of the Australian Taxation Office? Is that right? Is that right Mr Stanhope? I do not suggest that the figures will confirm that kind of result. I think the opposition needs to get its line clear. Is it in favour of the private sector or is it not? This government is, and will continue to have policies that are supportive of its growth, and conducive to a more vibrant private sector in this town.

Burnie Court Redevelopment

MR KAINE: My question to the Minister for Health, Housing and Community Care, Mr Moore, concerns the proposed redevelopment of public housing at Burnie Court. A rather curious situation has arisen—everything seemed to be proceeding satisfactorily with that urgently needed project until Mr Moore recently assumed portfolio responsibility for it. Ever since then it seems to have turned to custard. In fact, as far as the local residents are concerned—they are the people who stand to be most affected by this redevelopment—the government and the new minister seem to have thrown a shroud of secrecy over the project and the project seems to be taking an entirely new direction.

Minister, will you put on record, firstly, your reasons for setting aside or ignoring the interests and the agreed positions of the principal users of this project—that is, the Burnie Court Residents Association and the Lyons Community Association; and, secondly, your reasons for terminating the services of the two contractors who, by all accounts, were proceeding satisfactorily and meeting their obligations? Can you tell us why you terminated the contract? Can you tell us who now is drawing up plans for the Burnie Court redevelopment after all this time?

MR MOORE: Mr Speaker, I thank Mr Kaine for his question. You may recall that Mr Smyth announced the redevelopment of Burnie Court, ACT Housing's largest multi-unit property at Lyons, as part of the 1999-2000 budget. At that time the intention was to retain 74 units of general public housing, including 50 one-bedroom flats as well as 50 units of older persons accommodation. Since then there has been a two-stage expression of interest and tender process, which was terminated earlier this month on the recommendation of the tender evaluation panel because none of the short-listed tenderers achieved a satisfactory proposal. Many Assembly members expressed disappointment about the quality of the concept plans displayed in the mid-year.

The government has also recently announced two initiatives, which now impact on the redevelopment. The first is a change in acquisition policy to focus on two-bedroom stock as being more in line with community standards. The second is a change in the allocations policy to promote more sustainable living environments and allow greater flexibility in allocations so that couples may be eligible for three-bedroom properties and singles for the two-bedroom units, which are increasingly the norm for private renters.

Against this background, Mr Kaine, ACT Housing is reviewing its plans for the multi-unit precinct in Lyons. As a first step, ACT Housing will shortly advertise for master planners and consult with the local community and tenants prior to lodging development applications for subdivision of the site and progressive demolition of the buildings in the new year.

The government realises that the current situation is difficult for tenants and surrounding residents alike and will act quickly to progress the redevelopment. We will be working with tenants and residents with a view to achieving a better mix across the whole site whilst still retaining an acceptable proportion of units.

MR SPEAKER: Do you wish to ask a supplementary question, Mr Kaine?

MR KAINE: Thank you, Mr Speaker. I do not doubt that the minister has good reasons for what he is doing but the people who are most concerned have been totally excluded from the process. Will the minister undertake to put the Burnie Court Residents Association and the Lyons Community Association back in the loop so that they are no longer in the dark about what is going on? Will he instruct ACT Housing to take up discussions with those groups with a view to getting this urgently needed project back on track with a minimum of acrimony—and there is a lot of it right now, I can tell you?

MR MOORE: Mr Kaine, the short answer is yes. I have to say that it is not difficult to give this instruction because ACT Housing has already indicated to me that they will be working and consulting with those two groups and, of course, I would expect that.

Belconnen Remand Centre

MR HARGREAVES: My question is directed to the Chief Minister in his capacity as the minister responsible for corrective services. Last night's break-out from the Belconnen Remand Centre, bringing the total number of escapes to four prisoners in four months, highlights the problems in the corrections system in the ACT—something that has not been adequately addressed while the prison project slowly emerges.

Given that you have known about the overcrowding of BRC for over five years and that you have improved the accommodation at BRC by only six places in that time; given that in three years you have made no attempt to ensure that the corrective services bureaucracy is established in such a way as to be able to manage a new prison, let alone provide the management oversight for such a prison; given that you have indicated on 2CC radio today that your reason for not investing in the upgrading of buildings at the periodic detention centre to take low security remandees to take the pressure off BRC is that the periodic detention centre will not be used at its present site in two years time; do you acknowledge that low security remandees could have been housed at the periodic detention centre, and will you acknowledge that you have not administered the corrective services portfolio satisfactorily?

MR HUMPHRIES: I would not mind copping criticism on this fact from somebody else but, coming from the Labor Party, this happens to be pretty rich. Throughout its time in government the Labor Party steadfastly refused to acknowledge that we had a problem with our structure of corrective services in this town. Every time the Liberal opposition raised the fact that the remand centre was out of date and needed to be replaced, that it was in desperate need of its own process to handle its own corrective services—

Mr Wood: It was the former Chief Minister Rosemary Follett that opened up the possibility of a correction centre. You were backing off that until she did so.

MR HUMPHRIES: Having a possibility of a correction centre is, frankly, a grossly inadequate reaction.

MR SPEAKER: Order! Mr Humphries is endeavouring to answer your colleague's question.

Mr Wood: He is endeavouring to mislead the house. That's what he's endeavouring to do.

MR HUMPHRIES: Mr Speaker, it is out of order to suggest I misled the house. I ask that it be withdrawn.

MR SPEAKER: Yes, Mr Wood. I think you should, please.

Mr Wood: I couldn't hear what he said.

MR HUMPHRIES: You said I was attempting to mislead the house.

Mr Wood: Speak up.

MR SPEAKER: The accusation was that the Chief Minister was misleading the house, and he wants it withdrawn.

Mr Wood: Is he talking to me?

MR SPEAKER: I believe so, yes.

Mr Wood: Well, he ought to be offended, but I will withdraw it, because I wouldn't want to upset him—and speak up so you can be heard, will you?

MR SPEAKER: It is a bit difficult when you people are interjecting all the time.

MR HUMPHRIES: It is quite difficult when I have to shout over other people, Mr Speaker. I have never been accused before of being too softly spoken.

MR SPEAKER: Indeed.

MR HUMPHRIES: Mr Hargreaves made a number of serious mistakes about the fact that there has been a further break-out at the remand centre. First of all, this government has never shied away from the fact that the remand centre is inadequate. But it has also argued, I think convincingly in the community, that the remand centre by itself should not be considered as the priority for the ACT community. There is another very large, very important issue, and that is the question of housing our full-time sentence prisoners as well as our remandees. The fact is that it is appropriate for us to look at those two issues together, at least to some degree.

Further, it is wrong to suggest, as Mr Hargreaves has done, that the government has made no attempt to take action as a result of the earlier break-outs this year—made no response to that fact. Mr Hargreaves is apparently unaware of the fact that the New South Wales Department of Corrective Services was called in to do an assessment of the remand centre, made a number of recommendations and most of those recommendations have already been fully implemented. There is a further recommendation dealing with the perimeters of the building, which is in the process of being implemented, at least in some form. And a further review of that building will be done by New South Wales Corrective Services as a result of the most recent break-out.

I do not pretend for one instant that the BRC is particularly adequate. It clearly is not. But it has taken this government to kick-start the community debate about corrections in the ACT.

Now we are told we are going too slowly. It was only earlier this year that we were being told by Mr Hargreaves that the government was rushing the project—we were taking it too fast. "Slow down," said Mr Hargreaves, "you are taking this faster than the community can digest." Well, which is it today? Are we going too fast or going too slow? Is today a too-slow day?

Mr Moore: Tuesday—too-slow.

MR HUMPHRIES: Tuesday is too-slow. I am sure that by Thursday the government will be rushing these things and should be slowing down and stopping railroading things through the Assembly.

The one thing the government has learnt through the experience of the Bruce Stadium is that we need to make not the quickest possible decision but the right decision.

Mr Stanhope: That one was wrong, was it? Is that all you've learnt from that? That is page 1 of volume 1.

MR HUMPHRIES: I intend to take the time that the government needs to properly canvass the issues—

MR SPEAKER: Order! I warn you, Mr Stanhope.

MR HUMPHRIES: It is important that the decision we make be the right decision, properly canvassed and carefully considered. The government will make its decision in that light, and not merely because Mr Hargreaves offers gratuitous advice about how to proceed. I might also tell the Assembly that there is no such thing as low security remandees. All remandees have to be treated as, effectively, maximum security prisoners because they are all innocent people, technically.

Mr Hargreaves: They are not, and you know they are not.

MR HUMPHRIES: Sorry, remandees, unless they have been convicted of an earlier crime and are awaiting trial for a second offence, are all technically innocent people. Take my word for it, Mr Hargreaves.

Mr Hargreaves: No, if they are remanded for sentencing. You display your ignorance too well.

MR HUMPHRIES: Oh well, another bit of gratuitous advice from the fabulously smart Mr Hargreaves. The fact is that the options put forward by Mr Hargreaves are not feasible. They would come at great expense to the ACT taxpayer, and in my view the better answer is to proceed with the remand centre replacement, not with a stopgap measure.

MR HARGREAVES: I wish to ask a supplementary question of the minister. Is the minister aware that people who are convicted and remanded for sentence are not innocent people, will you accept that your stewardship of five years has been an appalling record of procrastination, and will you step down from that portfolio and allocate it to another minister?

MR HUMPHRIES: No.

Public Ovals

MR BERRY: My question is to the minister for sport, Mr Stefaniak. In statements earlier this year the government gave various commitments not to develop ovals, such as:

> No ovals have been sold for redevelopment and Canberra citizens can rest assured that the Carnell Government will not do so.

That appeared in the *Canberra Times* of 20 June. On 19 September a spokesperson for Mr Humphries confirmed that this commitment related only to school ovals. I am reminded of the actions of community members at the recent meeting on planning in the square outside where I heard shrieks of "liar", "bovine excrement", to coin a phrase, and so on. The ownership agreement of the minister's department for *Budget 2000* contained the following statement:

> The Bureau has 27 low maintenance sportsgrounds across Canberra, which are not required for sport use...These grounds occupy prominent locations in suburban areas and many may be better used for residential or commercial development.

On 27 June this year, in answer to a question from my colleague Mr Corbell, the minister for sport told this Assembly that that statement was a mistake—a grave one, I suspect. The big mistake was that it got out. Mr Stefaniak said:

> There is nothing there that indicates that any of these low maintenance ovals are in the process of being sold for redevelopment, either commercial or residential.

While all those statements were being made and all those reassurances were being given, the Department of Treasury and Infrastructure was beavering away undertaking an assessment of all unleased ovals to assist the territory's land development and release program and to identify the current marketable situation of this unleased territory land.

Mr Humphries: Mr Speaker, is there a question in there somewhere?

MR SPEAKER: There is a very long preamble there, Mr Berry.

MR BERRY: It is necessary to give a proper background, Mr Speaker.

MR SPEAKER: I will be the judge of that.

MR BERRY: Mr Speaker, I could go on for another five minutes and I still would not catch up with the time that has been devoted to their answers. Back to the minister. Was the minister wrong when he assured this Assembly that these ovals were not for sale or was he just misleading the Assembly?

MR STEFANIAK: Wayne, you know that I do not do things like that. In talking about bovine excrement, I presume you mean male bovine excrement.

Mr Speaker, I have said on a number of occasions since this issue was raised in estimates—indeed, backed by the rest of the government—that we have absolutely no intention of selling and we have given a commitment not to sell any of these low-maintenance ovals, 16 of which were next to primary schools. I say that because some of them are not low maintenance anymore.

Mr Smyth: Oh, we have restored some!

MR STEFANIAK: We have indeed. There are 11 other ovals. I think that we are going over a lot of old ground here, Mr Speaker, but I am happy to do that.

Mr Quinlan: Oh, that is a pun!

MR STEFANIAK: Do you like that, Ted? I am happy to do that for the edification of members. The government has given the commitment that it is not going to sell any of these ovals or have them developed. In fact, Mr Berry referred to a few sentences in a document that I think was before the Estimates Committee. An amendment was made

to that to properly reflect the current situation. I am happy to give another commitment for this government that we are not going to sell any of those 27 low-maintenance ovals. I cannot speak for a future Labor government, obviously.

Let us see what happened under Labor, Mr Speaker. Why are we in this situation to start with?

Mr Corbell: Why didn't you tell Gary's department to stop looking at them?

MR STEFANIAK: It is because back in 1993 and 1994, when the previous Follett government cut the budget across-the-board by 2 per cent, which was not very good financial management, the sports budget lost 27 ovals to fund that 2 per cent cut. They were made low maintenance.

Mr Corbell: What about Mawson oval, Bill? Did you tell them about the Woden athletics track?

Mr Smyth: Name him, Mr Speaker.

MR SPEAKER: I am about to if he is not careful.

MR STEFANIAK: Mr Speaker, what has happened to those low-maintenance ovals since the Liberal government took over in March 1995? In July 1998 two ovals—Lyneham North and Isaacs—were transferred to urban parks for inclusion in local open space. They were small areas which had never served as formal sportsgrounds. More importantly, in July 1998, eight ovals were transferred to the responsibility of the adjoining primary schools, with financial assistance from Education and Community Services, helped along by some of the money which sport and recreation has allocated for low-maintenance ovals. That was done to ensure that kids at those primary schools and other people in the community could play sport on those ovals.

As a result of Labor government policy, ovals were in many instances reduced to dust bowls and completely unkempt grounds. Included in those ovals were the ones at Fraser, Macquarie, south-west Evatt, Red Hill, Narrabundah, Chifley, Weston and Fadden. In fact, they were transferred as a result of an experiment in relation to the Macquarie Oval which I undertook with the Macquarie school board and the Bureau of Sport, Recreation and Racing, as it then was, in 1966, whereby about a hectare of that oval was brought back to a decent standard of maintenance. I can attest to its coming back to a decent standard of maintenance because I played on it in a football match and it was pretty good.

As a result of that, we developed the policy of bringing some of these ovals back to full maintenance. We have given every primary school the opportunity to do so, and I am pleased to see that most of them have. Some have not. For example, Flynn Primary School would not necessarily need to bring its oval back to full maintenance because it already has a fair bit of green space there; indeed, a football-size area of good green space.

Mr Corbell: Why did you mislead the Assembly?

MR STEFANIAK: I should mention three other ovals. The bureau of sport has negotiated subleases on—

Mr Smyth: I take a point of order, Mr Speaker. Mr Corbell has just interjected that the minister had misled the Assembly and he should withdraw that.

Mr Corbell: I withdraw the comment, Mr Speaker.

MR SPEAKER: Thank you.

Mr Smyth: You should name him because he persists is doing so.

MR SPEAKER: He is consistently interjecting.

MR STEFANIAK: The bureau has negotiated subleases on two ovals whereby the maintenance management is to be the responsibility of nearby private schools. Public access is to be retained for those ovals, that is, Flinders Park, Griffith, which Canberra Grammar School has brought back to full maintenance, and the one at Hawdon Street, Dickson, involving Daramalan College. Also, I am advised that another oval, the Duffy Primary School oval, has been brought back to full maintenance and cricket will be played there this summer. I must go and check it out.

MR BERRY: Mr Speaker, I find it quite unbelievable that the minister would—

MR SPEAKER: Ask your supplementary question, please.

MR BERRY: How is it that the minister does not recall that Mawson oval, the Woden athletics field and the Mawson District Playing Fields were on the list of ovals which were being considered by the government for sale? Can the minister advise us how it was that, while he was assuring the Assembly and the community that these ovals were not for sale, the Department of Treasury and Infrastructure was actively putting the lie to that assurance? Why didn't the minister either stop the assessments or correct his public statements?

MR STEFANIAK: Mr Berry, you might find some of those areas do not even come within the purview of my department, in which case I think it would be for the Minister for Urban Services. I have given commitments in relation to all the ovals that I administer. The only ovals I actually administered which have been sold off have been sold off for sporting reasons. Go and have a look at Erindale Oval, which the Tuggeranong rugby club has redeveloped into a wonderful facility. I think that you will find a couple of other examples of that around Canberra. Ainslie Oval is one. In fact, I think that Mr Lamont might have had something to do with that one. It was pretty good. I cannot speak for any other areas that do not belong to my department; but, as far as my department is concerned, the record speaks for itself.

Mr Bill Gates

MR RUGENDYKE: My question is to the minister for business, Mrs Carnell. The minister may recall that during the recent Olympic Games the images of famous faces in Sydney to watch the event were beamed into our homes when spotted in the stands by

the Channel 7 cameras. One of the identities in the crowds was Bill Gates, who needs no introduction to members. It has come to my attention that the minister with responsibility for business development was seeking a meeting with Mr Gates when he was in Australia. Could the minister please advise the Assembly whether a meeting was sought by either Mr Gates or the ACT government? If so, did the meeting go ahead? Who was in attendance? Where did it take place? What was the nature and outcome of the discussions?

MS CARNELL: No, a meeting did not take place, but we had dinner.

MR RUGENDYKE: I have a supplementary question. Have any further talks been planned between Mr Gates and the ACT government? Is there any indication that he is prepared to invest in the ACT? Who picked up the tab?

MS CARNELL: We are having ongoing discussions with the head of Microsoft in Australia, Mr Houghton. There are huge opportunities with regard to Microsoft using the ACT as a test site for a lot of its new software. The fact is that we have the highest usage of the Internet, not just in Australia but in the world, on recent survey statistics. Sixty-two per cent of Canberrans accessed the Internet last year, and that was the highest rate of Internet usage of any city in the world. I think that San Francisco came second at 61 per cent and Washington was at about 56 per cent. I think that we have something worth while to offer to Microsoft as a test site and we will continue to have discussions with them along those lines.

Urban Open Space

MR WOOD: My question is to Mr Smyth. I refer to documents obtained by my colleague Mr Corbell on the ACT land stock assessment. You were reported in the *Valley View* of 21 November as saying that the assessment was—you have got it there; that is good—"a land stock register ... to identify all the unleased land across the territory ... It is not a hit list of sites designated as Urban Open Space to be targeted for infill". If, as you say, the study was not a hit list of sites to be targeted for infill, can you explain why the study itself said that it aimed "to create a database for the Territory's unleased assets, the potential development and market opportunities for every single block"?

MR SMYTH: Mr Speaker, yet again, the land release program document makes quite clear what is going on and what Labor ignores, as they always do, is the last paragraph. Mr Wood talks of the *Valley View* of 21 November.

Mr Corbell: Are you disowning the report?

MR SMYTH: I would rather quote from the *Chronicle* of 14 November—

Mr Corbell: You are avoiding that report. You don't want to know about it, do you?

MR SPEAKER: Order!

Mr Corbell: You just don't want to know about it.

MR SPEAKER: Mr Corbell, I warn you.

MR SMYTH: Mr Wood might like to quote from an article of 21 November, but I think that he should quote from one of 14 November and apologise because, according to his Labor colleague, "the Labor Party says it has learnt from its past mistakes in government and would do things better" in regard to planning. What of Mr Wood's mistakes? Perhaps he would like to apologise to the people of the ACT for what Labor got wrong.

MR WOOD: I have a supplementary question, Mr Speaker. I seek your ruling. No attempt was made to answer the question to explain the discrepancy between the minister's documents and the minister's words, so I will give him the opportunity in the supplementary question to go back and explain that discrepancy and, further, to explain other words that were included in the study; for example, "to assist the Territory's land development and release programming", "to identify current marketable situation of this unleased Territory land", and "to identify unusable sites and the sites with development constraints". These simply do not accord with your words in that newspaper in front of you.

MR SMYTH: Mr Speaker, as a responsible land manager, the government needs to look at all the unleased land. In fact, when Mr Corbell was briefed by the public servants he told them that such audits had been done in other states and they were a good idea. Take it in context: you walk away from your mistakes, but you do not acknowledge what the government is doing in the process outlined in the land release program. Mr Corbell has now said that Mr Wood got it wrong as planning minister. Perhaps Mr Corbell or Mr Wood will outline what Labor got wrong and how they are going to rectify it if they should ever get into government again.

Special Education Funding

MR OSBORNE: My question is to the Minister for Education and relates to funding for special education. Minister, I am aware of the increases in funding in recent years that the government has provided to special education and I both understand and support the basis upon which funding is allocated to students with disabilities in government schools. It seems quite sensible that resources are allocated to students on a needs basis, where each student is provided the services and support required to advance their education.

However, I also understand that students with disabilities in non-government schools are not given the same commitment by the government. Instead, they are funded to a lesser degree for categories of disability and end up competing with each other for meagre resources. Some students receive adequate funding, some receive partial funding and some miss out altogether. Why is it that a student with a disability in a government school is provided with funding to meet their needs but, should they transfer to a non-government school, that funding is drastically reduced? Why does the funding not follow the child?

MR STEFANIAK: I thank the member for the question. Indeed, it is quite a good question. It goes to the very heart of the differences between the government's responsibility for government schools and the government's responsibility for non-government schools.

The territory government, as does any state government, has a responsibility to provide basic education and a decent level of education right across the spectrum from kindergarten to year 12. About 88 per cent of the total funding for state schools comes from state and territory governments. Other funding, 10 per cent or so, comes from the Commonwealth and 2 per cent or so comes from other sources. That is a general summation of what it is like across-the-board and the ACT is not terribly dissimilar.

As Mr Osborne said, we fund special education to a very high degree. In fact, I think that we fund our system far better than any other state or territory in the country. One of the problems may be that we are doing it so successfully that people tend to come to Canberra and stay here because of that.

Funding in the non-government sector is very different. The funding there in terms of government sources is mainly from the Commonwealth. The Commonwealth funds more than twice as much as the state or territory governments. Mr Osborne, our state funding towards government schools, depending on the category of school, is anywhere between about 42 per cent and 49 per cent of what the federal government puts in. As well, with the non-government schools the parents, depending on the system, make up a significant proportion of the funding.

The Commonwealth has some special programs for students with disabilities. Those special per capita programs which the Commonwealth administers go to the non-government schools for students with disabilities. That would be a primary source of funding for non-government schools.

The Liberal government here recognised, however, that there were certainly things that we could do as a territory to assist those children with disabilities in non-government schools. That is why we provided initially in, I think, the 1996-97 budget $100,000 for that. That went up to $200,000 and in the upcoming budget there will be the last of four increases of $100,000, taking the total to $600,000 for students with disabilities in non-government schools which the territory funds. The last increment on that will be in the 2001-02 budget.

We also give assistance in some other ways to the non-government sector in relation to disabled children; but, as a specific initiative of this government, it was initially $100,000 a year and it has now gone up to $500,000 a year in terms of assistance to the children with disabilities in the non-government sector.

MR OSBORNE: I have a supplementary question. Minister, I am still not sure—perhaps I missed it in your answer—why the funding does not follow the child from government to non-government schools. I am aware of situations within the non-government sector where children with disabilities have been denied places in the schools of their choice by particular schools because of lack of funding. Does this policy of yours leave the door open for these schools which reject these disabled children to be taken to the Discrimination Commission, as we saw recently in Sydney with a high-profile case?

MR STEFANIAK: I suppose you could argue that funds should follow all students, Mr Osborne. That is certainly a vexed question and a very complex one nationally; but, basically, our fundamental responsibility is to provide programs in the government

schools. We do not have the same responsibility in terms of the non-government schools and it is a matter of choice for the parents as to what they do there.

I am well aware of the case you mentioned in Sydney of a school being ordered to provide certain things for a little girl. That is of real concern for the non-government sector. It is certainly something that governments could look at in terms of how they fund or give assistance to non-government schools in the future. However, our basic responsibility is to ensure that we have the ability to take into our government schools any children who come there. Indeed, quite a number of students with disabilities are in government schools, probably because the facilities there are better than would be available to them in the non-government sector.

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

Palliative Care

MR MOORE: On 29 June Mr Osborne asked me a question about home-based palliative care. I did respond to him in writing. There being such a time delay, I table that response.

Department of Health and Community Care—Chief Executive

MR MOORE: During question time on 6 September I took a question on notice from Mr Stanhope with regard to an undertaking by Morgan and Banks. I wrote to Mr Stanhope, and I table that response.

PERSONAL EXPLANATION

MS TUCKER: I would like to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MS TUCKER: This is for Mr Smyth's benefit. Mr Smyth has said again that in the last election campaign the Greens were promoting infill. It is very important that Mr Smyth, as well as the community and this parliament, understands that the Greens have a very clear idea of what infill is versus urban consolidation. We have made that quite clear. I will read our policy. It is important to get it on the record.

MR SPEAKER: Only if it is a personal explanation.

MS TUCKER: Absolutely, it is.

MR SPEAKER: I will be the judge of that.

MS TUCKER: Mr Smyth continues to say that I am supporting infill in open spaces, so I need to explain to the parliament what we actually say. Is that not a personal explanation?

Ms Carnell: I take a point of order, Mr Speaker. If it does become acceptable to read party policy into the record as a personal explanation, I have to say—

MR SPEAKER: I would suggest it can be done on the adjournment.

MS TUCKER: But this is what I say, and Mr Smyth insists that I say something quite different. I should have the right to put on the record what I say.

MR SPEAKER: But if you are going to read from party policy, you will need a longer time. You can do it on the adjournment. There is nothing to stop you doing that.

MS TUCKER: Can I say what I say?

Mr Corbell: Yes.

MS TUCKER: I am not reading the policy, necessarily. We have said quite clearly that we will not see urban development on these open—

MR SPEAKER: We are using the royal plural now, are we, Ms Republican?

MS TUCKER: I am representing a community and a party.

Ms Carnell: Mr Speaker, I take a point of order. A personal explanation cannot talk about "we"; it can only talk about "I".

Mr Corbell: On the point of order, Mr Speaker: if Ms Tucker claims that the minister has misrepresented her position as a member of the Greens, she is quite entitled to correct that, and you should allow her to do so.

MR SPEAKER: She does not read the Green policies—or any other colour for that matter. Where have you personally been misrepresented, Ms Tucker?

Mr Berry: Mr Speaker, I am sure that as a monarchist you would accept the royal "we".

MR SPEAKER: I would, but she is not entitled to do so.

MS TUCKER: Funnily enough, I am representing more than myself here. I am not an Independent.

MR SPEAKER: But you are claiming to have been personally misrepresented.

MS TUCKER: Yes, I have been, because I was representing the Greens in the last election, and Mr Smyth is suggesting that I said that we supported infill in open spaces. What I have said as a Greens member is that we do not support urban consolidation on open spaces; that urban consolidation means that when you redevelop existing areas you can increase the density in certain circumstances, and only around commercial centres and on public transport routes. We were very careful to say that green space and open space have to be maintained and increased.

MR SPEAKER: Thank you. Your personal explanation has been finalised.

ANSWERS TO QUESTIONS ON NOTICE

MS TUCKER: In accordance with standing order 118A, I ask for an explanation concerning unanswered questions. My question is to Mr Humphries, who is not here. Maybe Mr Smyth can note this. The question was asked of Mr Humphries on 7 September, and he said he would take it on notice. The question asked whether the minister was supporting Ernst and Young receiving a special mention in the Gambling and Racing Commission's instructions to applicants for an interactive gambling licence. Mr Smyth, could you draw that to the attention of Mr Humphries?

MR SMYTH: I will draw it to the attention of the Chief Minister.

PERSONAL EXPLANATION

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

MR SPEAKER: Proceed.

MR CORBELL: Mr Speaker, earlier today in question time Mr Smyth suggested that I had made certain comments endorsing the government's land stock assessment. This is blatantly untrue. What I have said and what I have supported in the past is the preparation of a land account which would properly administer the leasehold system. The government is wrongly confusing a land account with a land stock assessment, which quite simply is a dash for cash.

ANSWERS TO QUESTIONS

Ultimate Rock Symphony

MS CARNELL: Mr Speaker, during Assembly question time on 31 August I was asked a question by Mr Hargreaves that I took on notice. The question asked was in relation to the Ultimate Rock Symphony. I have already advised Mr Hargreaves of the answer, but I ask for leave now to have the answer incorporated in *Hansard*. I have sent it to everybody.

Leave granted.

The document read as follows:

> Mr Hargreaves—Asked the Chief Minister without notice on 31 August 2000:
>
> The joint venture agreement with government entered into through Bruce Operations with the concert promoter required a reconciliation statement.
> 1) Can the Chief Minister say if this statement has been provided to the government or is still outstanding?

2) If the reconciliation statement has been provided, will the Chief Minister release it, as she released an interim reconciliation response to a resolution of this Assembly. And if the statement has not been provided, why not?
3) And what steps is the government taking to ensure its joint venture partner, International Touring Company, meets its obligations?
4) Can the Chief Minister say if the Territory has calculated its expenses on the venture and if so what were they and has the Territory recovered them from the insurance company?

Ms Carnell—The answer to the member's question is as follows:

1) Can the Chief Minister say if this statement has been provided to the government or is still outstanding?
The International Touring Company has recently prepared and provided a final reconciliation statement to Bruce Operations Pty Ltd (BOPL). This statement is currently being reviewed by an independent auditor and the expenses verified against records and documentation held by the International Touring Company and further information is being sought in respect of some items.
Legal advice is also being sought in relation to the statement to ensure that all disbursements are in accordance with the contract.
2) If the reconciliation statement has been provided, will the Chief Minister release it, as she released an interim reconciliation response to a resolution of this Assembly. And if the statement has not been provided, why not?
Yes, the final reconciliation will be released when the review is completed and final disbursements have been calculated and agreed.
3) And what steps is the government taking to ensure its joint venture partner, International Touring Company, meets its obligations?
As noted above, BOPL has secured legal advice and an independent audit in order to ensure its interests are protected.
4) Can the Chief Minister say if the Territory has calculated its expenses on the venture and if so what were they and has the Territory recovered them from the insurance company?
BOPL has incurred $93,602.84 in costs which are attributable to the concert. These have yet to be recovered as the final settlement has yet to occur. Pending the final disbursement the Territory's exposure therefore is the original contribution of $109,500 plus those expenses incurred by BOPL.
BOPL has yet to receive any proceeds of insurance monies.

PRESENTATION OF PAPERS

Mr Speaker presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—
Authority to broadcast proceedings concerning:
Notice of motion of want of confidence on Tuesday, 10 October 2000, in relation to the Chief Minister, dated 10 October 2000.
Election of the Chief Minister on 18 October 2000, dated 17 October 2000.
Public hearings of:
Standing Committee on Justice and Community Safety on Thursday, 5 October 2000 in relation to its inquiry into the Freedom of Information Bill (1998), dated 4 October 2000.

Standing Committee on Education, Community Services and Recreation on 9 November 2000 in relation to its inquiry into the adolescents and young adults at risk of not achieving satisfactory education and training outcomes, dated 17 October 2000.
Standing Committee on Education, Community Services and Recreation on 16 November 2000 in relation to its inquiry into the annual and financial reports of the Department of Education and Community Services and related agencies, dated 30 October 2000.
Select Committee on the 2001-2002 Budget on 21 and 22 November 2000 in relation to its inquiry into the broad parameters of the 2001-2002 Budget, dated 30 October 2000.
Select Committee on the 2001-2002 Budget on 23 November 2000 in relation to its inquiry into the broad parameters of the 2001-2002 Budget, dated 17 November 2000.
Standing Committee on Planning and Urban Services in relation to its inquiries into the 1999-2000 Annual Reports and Draft variation 163 Kippax Group Centre, dated 7 November 2000.
Standing Committee on Finance and Public Administration (incorporating the Public Accounts Committee) in relation to its inquiry into the 1999-2000 Annual Reports, dated 7 November 2000.
Standing Committee on Education, Community Services and Recreation in relation to its inquiry into the 1999-2000 Annual Reports, dated 7 November 2000.
Standing Committee on Health and Community Care in relation to its inquiries into the 1999-2000 Annual Reports and Aboriginal and Torres Strait Islander health, dated 7 November 2000.
Standing Committee on Justice and Community Safety in relation to its inquiries into the 1999-2000 Annual Reports, freedom of information and the Defamation Bill 1999, dated 7 November 2000.
Standing Committee on Justice and Community Safety on 20 November 2000 in relation to its inquiry in relation to the Defamation Bill 1999, dated 17 November 2000.
Authority to broadcast proceedings, pursuant to section 4—Authorisations (2), dated 25 September 2000, given to specified government offices to receive sound broadcasts of Legislative Assembly and committee proceedings, subject to the certain conditions.
Financial Management Act, pursuant to section 25A—Legislative Assembly for the Australian Capital Territory Secretariat—Performance report for the September quarter 2000-01.

AUDITOR-GENERAL'S REPORT NO 13 OF 2000

Mr Speaker presented the following paper:

Auditor-General Act—Auditor-General's Report—No 13 of 2000—Annual Management Report for the year ended 30 June 2000.

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

That the Assembly authorises the publication of the Auditor-General's Report No 13 of 2000.

ADMINISTRATIVE ARRANGEMENTS
Paper and Statement by Minister

MR SMYTH (Minister for Urban Services): Mr Speaker, the Chief Minister has had to go to Sydney for a ministerial council meeting, so on his behalf I present the following paper:

Administrative Arrangements (Gazette S64 of 20 October 2000).

I seek leave to make a short statement.

Leave granted.

MR SMYTH: On behalf of the Chief Minister, I am pleased to table today the Administrative Arrangement Orders for this government, together with the new ministerial arrangements. The revised administrative arrangements set important new directions in key areas, including reforms to purchasing and project management areas of government, identified in the recent Auditor-General's report.

Mr Speaker, when the Chief Minister announced the formation of his Liberal government's new ministry, he indicated that his government will keep a strong focus on strengthening Canberra's social capital. To reflect on this, he has created a new ministry and has taken on the role of the territory's first Minister for Community Affairs. This is to ensure a continuing debate on the best means of delivering important community services. The priority is to promote further social debate about how we can best return the financial gains made by this government to the Canberra community. Economic self-sufficiency is not a goal in itself. Mr Humphries' government is strongly committed to making Canberra a better place to live, including by improving community networks, supporting society's most vulnerable and providing a real sense of social and economic security.

To preserve the level of government stability that the community and business sector has come to expect, only limited adjustments have been made to portfolio area responsibilities. Given the increased responsibilities within the Chief Minister's portfolio, the business, tourism and arts functions will come within the ministerial responsibility of the Minister for Business, Tourism and the Arts. Responsibility for community safety and consumer affairs will be with the Minister Assisting the Attorney-General.

Other key shifts in responsibility include the consolidation of housing responsibilities with community care functions in the expanded portfolio of Health, Housing and Community Care; the inclusion of key purchasing and procurement functions in the Department of Treasury and Infrastructure; and the transfer of infrastructure and asset management and the land release program responsibilities to me, the Minister for Urban Services, to complement the territory planning functions.

These new arrangements reflect a further streamlining of the approach we as a government have taken to efficient and effective government in the ACT.

On behalf of the Chief Minister, I would also like to foreshadow further minor changes to the administrative arrangements due to the imminent resignation of the Minister for Business, Tourism and the Arts, Mrs Carnell. The consequent changes will be announced as soon as they are confirmed.

LAND (PLANNING AND ENVIRONMENT) ACT—VARIATION (NO 146) TO THE TERRITORY PLAN—CALLAM STREET REALIGNMENT
Paper and Statement by Minister

MR SMYTH (Minister for Urban Services): I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 29—Variation (No 146) to the Territory Plan relating to the Callam Street Realignment—Woden Town Centre, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I ask for leave to make a statement.

Leave granted.

MR SMYTH: Variation No 146 to the Territory Plan proposes to realign the southern part of Callam Street to directly connect to Athllon Drive, creating a four-way junction with Hindmarsh Drive. Currently these two streets form two staggered T-intersections on Hindmarsh Drive, and vehicles accessing the Woden Town Centre from the south are required to turn from Athllon Drive into Hindmarsh Drive, then immediately turn into Callam Street. The revised alignment will improve access to the Woden Town Centre, significantly reduce traffic congestion in the Phillip area and improve both bus operations and emergency services vehicle travel times.

It is also proposed to designate the road reserve as a major road land use policy. This is consistent with the planning policy of similar roads in Canberra's other town centres, roads such as Benjamin Way in Belconnen and Soward Way in Tuggeranong, which function as the major access to the town centres and which are defined as major roads. It is also proposed to remove the existing major road status from Easty Street, which would function as a minor access road to the eastern parts of the Woden Town Centre.

The road realignment reshapes the adjoining parcels of land and requires a revision of existing land use policies so that the land use policies and land parcels are aligned. In general, the proposal retains the commercial land use policy to the west of the Yarralumla Creek channel and residential land use policy to the east. The deletion of the extension of Easty Street allows the residential land use policy area to be extended to the eastern side of the channel. In addition, the precinct boundaries within the commercial land use policy area are revised to follow the road alignment.

A consequence of the Callam Street realignment is the expansion of the blocks to its west, south of Neptune Street. The existing land use policy is commercial B town centres, precinct "d" car parking. It is proposed to vary this policy to commercial B town centres, precinct "b" business area. This will provide further commercial development opportunities on section 18.

In addition, there will be a loss of some long-stay parking on sections 108 and 156 to the east of Callam Street and the need to relocate the existing traders with temporary tenure arrangements. However, there is currently an oversupply of long-stay parking in the centre. Loss of this parking will result in a redistribution of parking to currently underused car parks but not an overall shortfall in the centre. Long-stay parking to meet future demands can be more conveniently provided near the office precinct.

Realignment of Callam Street will create a parcel of unleased territory land adjoining section 18, Phillip. The Canberra Southern Cross Club has applied to purchase this land by direct sale. The club has indicated that it is prepared to meet the costs of constructing the road, estimated at $4.3 million. These costs exceed the value of the uses sought by the club, which has been provisionally valued by the Australian Valuation Office at approximately $3 million, and therefore the community will benefit by some $1.3 million.

The cost effectiveness of bringing the construction of the road forward, the traffic benefits by reducing the accidents caused at the intersections of Hindmarsh Drive, Callam Street and Athllon Drive, the community services provided by the Canberra Southern Cross Club and the short and long-term economic benefits are seen to be advantages to the territory.

The Standing Committee on Planning and Urban Services, well known to you, Mr Temporary Deputy Speaker, in report No 54 dated August 2000, has endorsed the variation. In accordance with the recommendation of the committee, the alternative option for the intertown public transport route has been deleted from the Territory Plan map.

LAND (PLANNING AND ENVIRONMENT) ACT—LEASES
Papers and Statement by Minister

MR SMYTH (Minister for Urban Services): I present the following papers:

> Land (Planning and Environment) Act—Schedules—Leases granted, together with lease variations and change of use charges for the period 1 July 2000 to 30 September 2000, together with copies of leases granted to Harmony Corporation Pty Ltd; Defence Housing Authority; a deed of agreement between the Territory and Croatia Deakin Football Club Incorporated and leases granted to Croatia Deakin Football Club Incorporated and the masterplan for Deakin Oval Redevelopment by Croatia Deakin Football Club Incorporated.

I ask for leave to make a short statement.

Leave granted.

MR SMYTH: Section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land. The schedule I have tabled covers

leases granted for the period 1 July 2000 to 30 September 2000. I have also tabled two other schedules relating to variations approved and change of use charges for the same period.

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

I wish to table for the benefit of members copies of three leases granted under disallowable instrument No 228 of 1997. The first lease was granted to the Deakin Croatia Football Club Inc. It is part of a comprehensive redevelopment proposal of the local area to upgrade the existing oval and car park, create new accessible public open space facilities and new residential accommodation.

To implement the redevelopment, the club was required to surrender its existing lease over block 5, section 36, Deakin in favour of a new lease over a smaller parcel of land to accommodate the new oval facilities and car park. The residue of the existing block is to become public open space which has been designed with consultation with the Deakin community, with the remainder being for residential use, subject to a Territory Plan variation, now known as block 15, section 36, Deakin.

The proposal has been agreed by the government as part of a holistic redevelopment package. It includes the club surrendering its existing lease and being granted a new lease for the oval and adjoining car park; appropriate compensation being paid to the club for its improvements on its existing lease; construction of a new oval, with lighting, adjacent to the existing car park, for use by soccer teams from across Canberra; release of part of the club's lease for public open space, to be developed at public expense, with ongoing management and maintenance by the territory; and improved pedestrian and bicycle access from Newdegate Street to the Deakin shops. It also includes creation of a larger public precinct around the Deakin anticline, as well as the provision of 96 overflow car parking facilities for use by customers of the Deakin shop and the direct sale of land of section 33 and block 15, section 36 to the club for development of 52 dwelling units. The release of block 15, section 36 for residential development will be subject to a variation to the Territory Plan.

Block 2, section 33, Deakin has been sold at market value. The Australian Valuation Office has determined the value of the land at $2.5 million. The Burley Griffin LAPAC has supported the total redevelopment package, including the direct sale of block 2, section 33, Deakin and—on variation to the Territory Plan—block 15, section 36, Deakin to the club.

Public consultation involving the LAPAC in the community was extensive. Substantial changes to the initial development proposal were agreed by the club in response to this community consultation. The club has responded to all issues raised, and the final planning for the overall area is seen as a win/win for the club, the government and the community.

The second lease was granted to the Defence Housing Authority over block 1, section 81, Bruce for development of housing for defence personnel. In December 1999 the ACT and Commonwealth governments jointly announced a major expansion of defence housing in Canberra that will see $200 million invested in new properties to meet the needs of the Australian Defence Force.

This acquisition and construction program complements the decision to expand the Defence Force College in Weston Creek and to co-locate the three service staff colleges there, at a direct cost of development by the Commonwealth of $28 million, placing added pressure on DHA to provide additional housing at short notice.

In recognising the importance of the Australian Defence Force as a major employer in the ACT, the ACT government has agreed to assist the program by initially providing land in Stirling for 50 dwellings and a site in the Huntley Estate in Bruce for 10 dwellings, by direct grant at current market value. The residential rental market in the ACT is very tight, with limited opportunities to rent or buy suitable houses for defence needs. The site of this lease was previously identified for hand-back to the territory, from the Huntley Estate, for public housing. ACT Housing no longer requires the site. The land is being sold to DHA at market value. The Australian Valuation Office has determined the value of the land at $480,000.

The third lease was granted to Harmony Corporation Pty Ltd, the nominee company of Ansett Australia Ltd, for block 2, section 75, Greenway. The lessee will provide a purpose-built, state-of-the-art 130-seat call centre for Ansett Australia in the Tuggeranong Town Centre. Ansett Australia has chosen the ACT as one of only three strategic sites in Australia to establish new facilities for its expanding call centre operations. The other two sites are located in Tasmania and South Australia. This first stage of development will create 50 new jobs and ensure the retention of the existing 120 jobs in the ACT. Ansett further propose to acquire additional adjoining land to expand this facility to a 390-seat call centre over the next five years, which will create an additional 220 new jobs.

The grant of the lease forms part of a business incentive package approved by the government. The retention and creation of the new jobs will establish a significant employment and skills base in Tuggeranong which in turn will provide economic benefit to the town centre businesses and other local areas. The land is being sold at market value. The Australian Valuation Office has determined the value of the land at $650,000.

As I have outlined, I believe that there will be significant benefits to the territory to support the redevelopment of Deakin Oval by the Deakin Croatia Football Club. The social and direct economic benefits to the territory justify a direct sale of land to enable the club to upgrade its existing facilities and provide the residents of Deakin with improved public open space, better pedestrian access to the Deakin shopping centre and additional car parking.

I also believe there will be significant benefits to the territory to support both the Defence Housing Authority and Harmony developments in the territory. The economic benefits justify a direct grant of land to enable DHA to meet its expanded housing program and, in the case of Harmony, to enable Ansett to expand its call centre capabilities.

In addition to tabling each of the leases, I would also like to table, for the information of members, the deed of agreement with the Deakin Croatia Football Club and a master plan report for the project. The deed underpins the arrangements with the territory. The master plan report was prepared by the club as part of the development application process and provides a good outline of all aspects of the overall development.

PRESENTATION OF PAPERS

Mr Moore presented the following papers:

Subordinate legislation (including explanatory statements) and commencement provisions

Administration Act—Delegations—

Instrument No 294 of 2000—*Public Health Act 1997* (No 36, dated 7 September 2000).

Instrument No 312 of 2000—*Smoke-free Areas (Enclosed Public Places) Act 1994* (No 40, dated 5 October 2000).

Agents Act—Appointments to the Agents Board of the Australian Capital Territory—

Chair and Member—Instrument No 317 of 2000 (No 41, dated 12 October 2000).

Members—Instrument No 318 of 2000 (No 41, dated 12 October 2000).

Bookmakers Act—Determinations—

Contingencies to be sports betting events—Instrument No 299 of 2000 (S50, dated 8 September 2000).

Directions for the operation of a sports betting venue—Instrument No 340 of 2000 (No 45, dated 9 November 2000).

Places to be sports betting venues—

Instrument No 300 of 2000 (S50, dated 8 September 2000).

Instruments No 335 to 339 of 2000 (inclusive) (No 45, dated 9 November 2000).

Building Act—Exemption—Instrument No 304 of 2000 (S53, dated 13 September 2000).

Children and Young People Act—

Children and Young People Regulations 2000—Subordinate Law 2000 No 41 (S59, dated 12 October 2000).

Children and Young People (Modification) Regulations 2000—Subordinate Law 2000 No 37 (S57, dated 22 September 2000).

Crimes (Forensic Procedures) Act 2000—Notice of commencement (16 October 2000) (S59, dated 12 October 2000).

Cultural Facilities Corporation Act—Appointment of member of the Cultural Facilities Corporation—Instrument No 329 of 2000 (No 43, dated 26 October 2000).

Dog Control Act—Declarations of dog exercise areas—

Dunlop—Instrument No 315 of 2000 (No 40, dated 5 October 2000).

Gungahlin—Instrument No 314 of 2000 (No 40, dated 5 October 2000).

Domestic Violence Act—Appointment of members of the Domestic Violence Prevention Council of the Australian Capital Territory—Instrument No 321 of 2000 (S59, dated 12 October 2000).

Electoral Act—Electoral Regulations Amendment—Subordinate Law 2000 No 43 (No 44, dated 2 November 2000).

Environment Protection Act—Environment Protection (Legislation) Regulations 2000—Subordinate Law 2000 No 36 (No 38, dated 21 September 2000).

Financial Institutions Duty Act—Financial Institutions Duty Regulations Amendment—Subordinate Law 2000 No 39 (No 41, dated 12 October 2000).
Fire Brigade (Administration) Act—Appointment and determination of terms and conditions of Fire Commissioner incorporating explanatory statements—Instrument No 319 of 2000 (No 41, dated 12 October 2000).
Health and Community Care Services Act—Revocation and determination of fees and charges—
Instrument No 301 of 2000 (No 37, dated 14 September 2000).
Instrument No 334 of 2000 (No 45, dated 9 November 2000).
Health Professions Boards (Procedures) Act—Appointment of acting member of the Physiotherapists Board—Instrument No 322 of 2000 (No 42, dated 19 October 2000).

Corrigendum

Health Professions Boards (Procedures) Act and Physiotherapists Act—Appointment of acting member of the Physiotherapists Board—Instrument No 322 of 2000 (No 44, dated 2 November 2000) (previously notified in Gazette No 42, dated 19 October 2000).

Health Professions Boards (Procedures) Act and Dentists Act—Appointment of member of the Dental Board of the ACT—Instrument No 311 of 2000 (No 40, dated 5 October 2000).
Land (Planning and Environment) Act—Appointment of member of the ACT Heritage Council—Instrument No 287 of 2000 (No 36, dated 7 September 2000).
Legal Aid Act—Appointment of a Commissioner of the Legal Aid Commission (A.C.T.)—Instrument No 328 of 2000 (S63, dated 18 October 2000).
Legislative Assembly (Members' Staff) Act—
Terms and conditions of employment of staff of Members—Instrument No 332 of 2000 (No 45, dated 9 November 2000).
Terms and conditions of employment of staff of office-holders—Instrument No 33 of 2000 (No 45, dated 9 November 2000).
Liquor Act—Liquor Regulations Amendment—Subordinate Law 2000 No 38 (No 39, dated 28 September 2000).
Mediation Act—Mediation Regulations Repeal Regulations 2000—Subordinate Law 2000 No 42 (S63, dated 18 October 2000).
Mental Health (Treatment and Care) Act—Appointments of mental health official visitors—
Principal Official Visitor—Instrument No 291 of 2000 (No 36, dated 7 September 2000).
Official Visitors—Instruments Nos 292 and 293 of 2000 (No 36, dated 7 September 2000).
National Exhibition Centre Trust Act—Appointment of members to the National Exhibition Centre Trust—Instrument No 298 of 2000 (No 37, dated 14 September 2000).
Olympic Events Security Act 2000—Notice of commencement (5 September 2000) of remaining provisions (S49, dated 5 September 2000).
Olympic Events Security Act—Declaration—No 1 of 2000—Instrument No 297 of 2000 (S49, dated 5 September 2000).
Parole Act—Appointment of member of the Parole Board of the Australian Capital Territory—Instrument No 309 of 2000 (No 39, dated 28 September 2000).

Public Health Act—

Determination of a code of practice for the operation of cooling towers and warm water storage systems—Instrument No 288 of 2000 (No 36, dated 7 September 2000).

Determination of fees—Instrument No 295 of 2000 (No 36, dated 7 September 2000).

Public Place Names Act—Determinations of street nomenclature—

Greenway—Instrument No 296 of 2000 (No 37, dated 14 September 2000).

Nicholls—Instrument No 307 of 2000 (No 39, dated 28 September 2000).

Russell—Instrument No 308 of 2000 (No 39, dated 28 September 2000).

Remand Centres Act—Remand Centres Regulations Amendment—Subordinate Law 2000 No 45 (No 45, dated 9 November 2000).

Road Transport (Dimensions and Mass) Act—

Determination of mass limits of vehicles—Instrument No 303 of 2000 (No 38, dated 21 September 2000).

Exemption notices—

62.5 tonne B-Doubles, 4.6 Metre High Vehicles and 14.5 Metre Long Buses—Instrument No 330 of 2000 (No 43, dated 26 October 2000).

Oversize vehicles—Instrument No 331 of 2000 (No 43, dated 26 October 2000).

Road Transport (General) Act—

Declarations—

Road transport legislation not to apply to:

Certain vehicles and persons—

Instrument No 302 of 2000 (S52, dated 13 September 2000).

Instrument No 320 of 2000 (S59, dated 12 October 2000).

Roads and road related areas—Instrument No 323 of 2000 (S60, dated 16 October 2000).

Road related areas—Instrument No 341 of 2000 (No 46, dated 16 November 2000).

Determination of non-refundable fees—Instrument No 313 of 2000 (No 40, dated 5 October 2000).

Roads and Public Places Act—Revocation and determination of fees—Instrument No 316 of 2000 (S58, dated 29 September 2000).

Subordinate Laws Act, Agents Act and Agents Amendment Act—Determination of fees incorporating explanatory statement—Instrument No 310 of 2000 (No 39, dated 28 September 2000).

Supreme Court Act—

Corporations Law Rules Amendment—Subordinate Law 2000 No 40 (No 42, dated 19 October 2000).

Supreme Court Rules Amendment—

Subordinate Law 2000 No 44 (No 44, dated 2 November 2000).

Subordinate Law 2000 No 46 (No 46, dated 16 November 2000).

Tobacco Act—Determination of fees—Instrument No 305 of 2000 (No 38, dated 21 September 2000).

Transplantation and Anatomy Act—Appointments of designated officers for:

Calvary Hospital—Instrument No 342 of 2000 (No 46, dated 16 November 2000).

The Canberra Hospital—Instruments Nos 324 to 327 (inclusive) of 2000 (S61, dated 17 October 2000).

University of Canberra Act—Appointment of Member of the Council of the University of Canberra—Instrument No 306 of 2000 (No 38, dated 21 September 2000).

Performance reports

Financial Management Act, pursuant to section 25A—Quarterly departmental performance reports for the September quarter 2000-2001 for:
Chief Minister's Department.
Department of Education and Community Services.
Department of Health and Community Care.
Department of Justice and Community Safety.
Department of Treasury and Infrastructure.

Petition—Out of order

Turner, block 1 section 3—Proposed sale—Ms Tucker (100 residents).

ANNUAL REPORTS (GOVERNMENT AGENCIES) ACT—ANNUAL REPORTS
Papers and Statement by Minister

MR MOORE (Minister for Health, Housing and Community Care): I present the following papers:

Annual Reports (Government Agencies) Act, pursuant to section 14—
Department of Treasury and Infrastructure—Report for 1999-2000—Revised Volume 2.
Chief Minister's Department—Report for 1999-2000—Volume 2—Erratum to the financial statements.
Kingston Foreshore Development Authority—Report for 1999-2000.

I ask for leave to make a brief statement in relation to the papers.

Leave granted.

MR MOORE: Publication errors have been identified in the financial statements for the Chief Minister's Department and the Department of Treasury and Infrastructure. The erratum to the Chief Minister's Department report concerns the InTACT Group financial statements. Volume 2 of the Department of Treasury and Infrastructure report included publication errors in some of the statements, and a replacement volume has been presented.

The department's audited accounts include errors in note 11.11, "Waivers". The errors are clerical and do not affect the amounts of revenue collected in the accounts. Under the Rates and Land Tax Act, an amount of $1,691 was waived, which has been incorrectly recorded as $1.691 million. Under section 65(1) of the Financial Management Act 1996, an amount of $33.258 million has been waived, not $51.744 million. The incorrect amount is due to a manual error in data entry in the compilation of statistics for the annual report.

Mr Humphries, as I understand it, wrote to the Standing Committee on Finance and Public Administration about the errors prior to the annual report hearings on 10 November 2000.

The financial statements of the Kingston Foreshore Development Authority annual report include a previously omitted note 2.15, "Events Subsequent to Balance Date". The remuneration paid to board members is now identified under note 3.16, "Related Party Disclosures", instead of "Consultancies and Contractors".

PRESENTATION OF PAPERS

Mr Moore presented the following papers:

Financial Management Act—
Consolidated Financial Management Report for the month and financial year to date for the period ending 30 September 2000, pursuant to section 26.
Approval of guarantees (5) under agreements between the Australian Capital Territory and the CPS Credit Union Co-operative (ACT) for loans under the Small Business Loan Guarantee Scheme.

Ms Carnell presented the following papers:

Cultural Facilities Corporation Act, pursuant to subsection 29 (3)—Cultural Facilities Corporation—Quarterly report for 1 July to 30 September 2000.
Canberra Tourism and Events Corporation—GMC 400 Report 2000, dated 14 October 2000.

CANBERRA TOURISM AND EVENTS CORPORATION—GMC 400 REPORT
Statement by Minister

MS CARNELL (Minister for Business, Tourism and the Arts): I ask for leave to make a statement in relation to the GMC report.

Leave granted.

MS CARNELL: For the interest of members, I have tabled the report on the GMC 400 V8 supercar event held in Canberra from 9 to 11 June 2000. The Shell championship series and its governing body, the Australian V8 Supercar Organisation (AVESCO), offered Canberra a five-year opportunity to stage a round of the Shell championship series for V8 supercars.

In October 1999, the Assembly voted to appropriate a total of $17 million, $4.5 million for capital works and $2.5 million in recurrent expenditure, over five years to deliver the event. The Canberra Tourism and Events Corporation (CTEC) was charged with delivering the event on time and within budget.

The perceived benefits of holding an event of this calibre included attracting approximately 50,000 spectators in the first year; a rise in room occupancy rates of 12 per cent, with associated benefits to restaurants and the retail and transport sectors; the creation of 150 full and part-time job equivalents; considerable national and international media exposure; and an estimated $52 million in economic benefits over a five-year period.

This statement presents an account of the GMC 400's performance in 2000 and provides additional information on safety and environmental management of the event. I am delighted to inform the Assembly that the GMC 400 has met or exceeded most of the goals set by CTEC.

Attendance at the GMC 400 surpassed all expectations. An early estimate of attendance issued after the race was 109,000 people. Final reports of attendance received confirmed total attendance of 108,376, very close to the original figure. An accreditation system enabled entry by media, the host broadcaster, support teams, officials, volunteers, three-day access holders and precinct pass holders. The Australian Federal Police, children under 12 and holders of AVESCO cards did not require accreditation.

Categories of ticket sales included one-day and three-day tickets for general admission, entry to the V8 paddock and corporate attendance. Ticket sales were: one-day tickets, 40,340; three-day tickets, 10,095; total, 50,435. These details have been provided to the Assembly in response to a question on notice by Mr Osborne. Supplementary information, including information on additional sales by Ticketek and the accreditation system, has increased the total number of tickets sold to 58,450.

The GMC 400 contributed to the highest occupancy levels in our accommodation sector in the past 12 years for that time of year. Reports by the Canberra Visitors Centre and the accommodation industry associations indicate that Canberra's accommodation sector was almost fully booked during the June long weekend.

The survey of tourist accommodation for the June quarter of 2000, issued by the Australian Bureau of Statistics, has also confirmed the event's value to the tourism industry. The survey indicates that for the 2000 June quarter room occupancy rates increased by 3.8 per cent over the same period in 1999, rising to 64.7 per cent. The national average was 57.1 per cent, with the ACT achieving the highest occupancy rate in the country for that period.

The room nights occupied in the ACT increased by 14.1 per cent to 296,400. Nationally this figure rose by an average of 6.1 per cent. Room supply in the ACT also increased to 5,032 in the June 2000 quarter and was 7.4 per cent higher than the 1999 figure. Serviced apartment room supply also increased sharply by 19.2 per cent during this quarter. Takings for accommodation increased by 18.6 per cent to $30.1 million, compared with a 9.8 per cent increase nationwide. The overall increases in the tourist accommodation sector in a traditionally quiet tourism period in the ACT can be directly attributed to the impact of the GMC 400.

One of the reasons for attracting new events to the territory is the creation of new jobs. I am pleased to inform the Assembly that the event has delivered a far greater number of jobs than we expected. The GMC 400 created a large number of full-time and part-time jobs in areas such as catering, security, construction and administration.

The GMC 400 was screened throughout Australia on Network Ten and Fox Sports One and on TV One in New Zealand. Telecasts included fabulous aerial shots of the national capital, supplemented by images featuring the beauty of our city and the parliamentary triangle. Sponsorship Information Services was engaged to provide an independent

analysis of media coverage associated with publicity value. Race day coverage in Australia and New Zealand for about 10 hours accounted for a total collective audience of 1.663 million people. Top ratings were obtained in Brisbane and New Zealand. Eighteen news programs provided news on the GMC 400 to a total audience of 7.63 million people. The largest audience was 2.6 million people on channel 10.

The GMC 400 has indeed provided Canberra with extremely valuable publicity. The publicity has helped to portray the national capital as a vibrant city and a place for people to enjoy and have fun watching sporting events. The event has certainly helped to dispel the perception that Canberra is a city inhabited by politicians and merely a home for national monuments.

During the GMC 400, Taylor Nelson Sofres undertook a survey of spectators and teams to define approximate visitor numbers, visitor satisfaction, recall of sponsor, economic impact and visitor behaviour while in Canberra. Estimated total benefit for Canberra as a result of the GMC 400 is $13.2 million, exceeding the target of $10.4 million for the first year. An independent survey by Taylor Nelson Sofres states that spectators and teams who attended the event spent an estimated $8.79 million. Interstate visitors spent over $4.3 million, Locals spent $3.6 million, and the interstate teams competing in the race spent $834,486.

Spectators spent at the event an average of $61.14 per person, with visitors coming to Canberra specifically for the event spending more ($103.04) than locals ($46.74). Visitors to Canberra who specifically came to see the GMC 400 spent $322 per person. When that amount is added to the $103 spent at the event, they spent approximately $425 per person. No-one will ever say not enough information was provided on this event.

Teams visiting Canberra spent $540.47 on average while in Canberra. The V8 teams spent more on average ($550.40) than support teams ($522.98). Team members stayed on average 4.1 nights in Canberra, usually in hotels and motels (63 per cent) or in serviced apartments (20 per cent). V8 teams typically stayed in hotels (93 per cent), while support teams stayed in a range of accommodation, including hotels (33 per cent), serviced apartments (33 per cent) and with family or friends (27 per cent).

Event revenue of $4.5 million came from non-government sources such as sponsorship and concessions. The GMC 400 generated substantial business activity through locally let contracts for race infrastructure. Businesses in Canberra and the region took on contracts worth over $4 million to supply events or items ranging from concrete barriers, security and cleaning services to traffic management, hire of portable buildings, communications, security, signage and much more.

The Taylor Nelson Sofres report has provided more information which further demonstrates the success of the event. Over 80 per cent of spectators said the event was good to very good, while 79 per cent said they would come back next year. Eighty-five per cent of locals surveyed said the GMC 400 was a good event and they would attend again next year. Eighty per cent could easily name GMC as the major sponsor. Of the 142 teams, three-quarters rated the event as good or very good.

The GMC 400 complied with all environmental guidelines relating to noise pollution, protection of existing drainage systems and preservation of the race precinct's heritage value. An independent acoustic specialist from the acoustics and vibration unit of the Australian Defence Force Academy conducted significant noise monitoring of the event. Environment ACT has been provided, and is happy, with the findings.

CTEC considered that an effective safety and emergency response was of paramount importance for the safe conduct of the event. An integrated approach to safety planning was adopted from the start. The safety committee included relevant staff from the Australian Federal Police, ACT Emergency Services, ACT WorkCover, the ACT Department of Health and Community Care, St John Ambulance and coordinators of the event.

The event now has a working plan for emergency response that can be modified each year to comply with future changes in layout and procedures. The AFP and ACT Emergency Services provide tremendous support for the event, and I would like to thank them for the huge amount of work they did. They certainly helped to make the event a huge success.

The GMC 400 achieved an operating profit of $2.671 million for the 2000 event. The total revenue for the event was $11.479 million, including a $7 million contribution from the ACT government. Total expenses for the 2000 event amounted to $8.808 million. A further $3.402 million was spent on the purchase of capital equipment, including concrete barriers, security fencing and pedestrian bridges.

For next year's event, additional requirements have been imposed by the National Capital Authority following its review of the inaugural event. These changes, and more restricted timeframes for setting up and dismantling the track and associated facilities, are expected to result in the need for an increased contribution by government. The National Capital Authority has suggested that the timeframe for setting up and pulling down event facilities needs to be shorter than was the case this year, and CTEC will certainly be complying with all National Capital Authority requirements. The extra costs were more than compensated for by the much better than expected results of the GMC 400 for the year 2000.

I believe that CTEC, during the short lead time available, delivered an event that has provided economic benefits surpassing all expectations. I would like to particularly thank Katie Reardon and her team at CTEC, who put in an enormous amount of time and effort. Jane Service and others involved on the board of CTEC should be thanked also. I commend the report to members of the Assembly.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Report No 57 of 2000

MR HIRD (4.19): Mr Deputy Speaker, I present report No 57 of the Standing Committee on Planning and Urban Services, entitled *Proposals for the establishment of rural residential development as a land use*, together with extracts of the minutes of proceedings, and I move:

That the report be noted.

This report is on an inquiry into another contentious issue referred to the committee, namely, whether rural residential development should be established as a land use category in the territory. The inquiry was undertaken at the direction of the territory's parliament and took over one year to complete. The committee received nine submissions and held one public hearing.

The committee appreciated the cooperation it received from the Minister for Urban Services and his departmental officers. Members especially appreciated the minister's action in providing copies of the submissions to the consultant who prepared the discussion paper on rural residential development in 1998. These submissions were helpful to our understanding of all of the issues before us. The minister asked the committee to respect the confidentiality of some of these submissions and the committee has done so in its report.

The committee's report shows that members have strong views on rural residential development within the territory. One member, my colleague Mr Corbell, believes that rural residential development is completely unsuited to this territory. Another member, Mr Rugendyke, is wary of the idea and wants further information before he reaches a definite conclusion.

My own view is that rural residential development of the type the government is proposing makes sense for this territory. Why? It is because there is room for it and there is a demand for it, it can be done to a very high standard within the territory, it widens the housing choice available to the residents of this territory, it will not financially disadvantage the territory, and we have some areas of the ACT—not many; Kinlyside and North Gungahlin are just two—where rural residential development would be particularly suitable.

With such a diverse range of views, it might be considered a surprise that the committee has produced two unanimous recommendations. The first concerns Hall Village. All members want to see Hall Village protected from the urban residential development that is proposed for Kinlyside. One key protective measure is the establishment of a buffer zone around the village so that Hall can retain its existing rural feeling and distinctive appearance. The size and nature of the buffer zone are part and parcel of the master plan now being drawn up for Hall Village. All of us agree that the master plan must be completed before any urban development takes place in Kinlyside.

The second unanimous recommendation of the Planning and Urban Services Committee is that a draft variation to the Territory Plan should be prepared for a new land use classification of rural residential development. I think that would help advance the whole issue because it would do two things, Mr Deputy Speaker: firstly, it would provide an opportunity for extensive public consultation on the whole idea. Secondly, it would enable the government to closely examine the many ideas for the exact nature and type of rural residential development that came out of this committee's inquiry. I see both of these developments as pluses for the ACT community.

I thank those people who participated in the inquiry. I thank the secretary, I thank the minister and his staff and I thank also the members of the public who made a contribution to this inquiry. I commend the report to the house.

MR CORBELL (4.23): Mr Deputy Speaker, I think it is a sign that the committee process is in good health that, even though every member of the Planning and Urban Services Committee could not agree on whether rural residential development was appropriate, we have been able to put forward two unanimous recommendations about the way ahead.

As the chairman of the committee, Mr Hird, has pointed out, I do not agree with the concept of rural residential development for the territory and all the evidence that I saw presented to the committee's inquiry only reinforced that view. However, it is clear that the government itself and at least one and possibly two members of the committee believe that rural residential development should be progressed.

But unanimously we could not agree with the government's assertion that it should be progressed within the framework of residential land use as it is currently defined in the Territory Plan. Instead, the committee believed that if the government felt rural residential development was an appropriate land use for the territory, it should be progressed by introducing a new land use category for the Territory Plan. In that way, this place could have the final say in relation to whether it is an appropriate land use for the territory. Do not try to use the current residential land use classifications, which are really for more traditional suburban subdivision. Introduce a new land use category that explains rural residential development very clearly.

I think that the recommendation is important because the government has shifted ground as this issue has evolved. Initially, it started off by talking about rural residential development very much of the kind that we see in surrounding shires in New South Wales. Then the government moved to saying that it was going to be upmarket rural residential development, whatever that means. Finally, the government moved to saying that they would really be just large suburban blocks.

Mr Deputy Speaker, it is quite clear that the government still has a very unclear proposition in mind as to what exactly it means by rural residential development. But it is clear from all those statements that the government is not proposing the normal style of suburban subdivision. Therefore, the normal type of land use category, residential, is not suitable, in the committee's view, for the type of subdivision the government apparently is proposing.

That is the challenge to the government. If they want to progress rural residential development, they should do it in a way which involves introducing a new land use classification as a variation to the Territory Plan, let it be examined in detail by the Planning and Urban Services Committee, and let it be subject ultimately to the veto of this place if members feel that it is not an appropriate proposal.

Mr Deputy Speaker, the other issue that is worth commenting on is recommendation 1 of the committee, which says quite clearly that the buffer zone between Hall and any possible residential development in the Kinlyside valley should be improved. I think that is a very important recommendation. It is quite clear that the current relationship

between the indicative boundary—I accept that it is an indicative boundary—between residential development in Kinlyside and Hall is not adequate and there is a capacity for residential development to come within about 100 metres of the Hall Showground.

If that were to proceed it would have a considerable impact on the amenity of Hall and the rural setting of Hall as a village. That needs to be better protected. I think the recommendation for an improved buffer zone is a very important one. That should proceed regardless of any government decision on rural residential development at Hall/Kinlyside.

Mr Deputy Speaker, the issue of rural residential development is a very interesting one, but in all of the evidence that was presented to the committee inquiry it became very clear that it would have, in my view at least, considerable impacts on the relationship of the territory with the region, it would have considerable impacts in terms of the loss of areas for perhaps more formal or more routine, if that is the right word, suburban subdivision, and clearly it would have major concerns in relation to environmental impact and in terms of cost to the territory in the servicing and provision of facilities.

I think that the problem we have is that the government has not clearly articulated its case about exactly what it wants. Until it does that and until it puts forward a formal definition of what it is about and a new definition in the Territory Plan for rural residential land use which can be considered by this place, I really think that the government has a lot more work to do. I commend the report to the Assembly.

Question resolved in the affirmative.

Report No 58 of 2000

MR HIRD (4.29): I present report No 58 of the Standing Committee on Planning and Urban Services, entitled *Monitoring the implementation of Variation No 64 to the Territory Plan: Latham Shops*, together with extracts of the minutes of proceedings, and I move:

> That the report be noted.

Mr Deputy Speaker, this report is part of the committee's self-initiated inquiry into monitoring the way in which variation No 64 to the Territory Plan is implemented. Members will recall that variation No 64 widened the uses permitted in local shopping centres in an effort to enhance their viability. The variation is in accordance with guidelines prepared by PALM, which provide supplementary information to aid the interpretation of variation No 64. In particular, the guidelines set out the way in which the viability of a local shopping centre will be assessed by officers of PALM.

Members will not be surprised to learn that this part of the guidelines has come in for considerable criticism by those who are distressed to see any part of their local centre being used for anything other than retailing. This is the case in the application of variation No 64 to the Latham local centre. The committee's report notes that various proposals for redeveloping the Latham local centre have been around for years. In fact,

the latest proposal is called version 10 because of the number of proposals that had gone before it.

The version 10 proposal is accompanied by detailed documents pointing to the lack of viability of the local centre. Anyone who knows the centre would know that it is now in a deplorable condition and its refurbishment is long overdue. My committee carefully scrutinised all of the information about the latest proposal for the Latham local centre. The committee, with one member dissenting, concluded that version 10, as it is known, offers a way out of the existing situation.

It does not please everyone, but my colleague Mr Rugendyke and I, the local members in the area, believe that it is pointless to wait around until more investigation is done of the viability of this local centre. We believe that it is time to cut through the delays and encourage redevelopment of the centre. That is also PALM's view. We think that a mix of residential and commercial use of the land is appropriate. Also, and this is a most important point, we think that the amount of retail space proposed in version 10 is about the most that is possible at the present time in Latham.

We might be wrong, and readers of our report will see that we faithfully report on other points of view, but we think the time has come to go with what is possible and feasible, so we are prepared to stick our necks out on this one and say, "For heaven's sake, let something happen to the Latham local centre that will improve the existing mess." We can always hope that at a later time, if circumstances change, some of the proposed residential development will revert to commercial use, but do not hang around forever waiting for this state of affairs to arrive.

The final point that I want to make is that this report by the Standing Committee on Planning and Urban Services is another example of a committee of the Assembly playing a municipal-type role in our community on behalf of this parliament. That is very important, Mr Deputy Speaker. We should not underestimate the value of a local government type of role in addressing various problems within our community. As all members know, this parliament and the government have responsibility for both state and local roles, and they should aim to do them well. I commend the report to the house.

In doing so, I point out that one member of the committee, Mr Corbell, dissents from this report. Mr Deputy Speaker, due to pressing engagements of which I am sure you would be aware, Mr Corbell has not as yet been able to prepare his dissenting report. I understand that one will be coming down and that he will be asking for the leave of the parliament to incorporate his dissent in this report. I will be pleased to move for its incorporation at the time Mr Corbell presents his dissent.

In closing, I recommend that the report be agreed to. I thank all the parties that gave evidence to the committee and assisted it in its deliberations, as well as officers of PALM, as usual, and I thank the Minister for Urban Services. Also, I thank my colleagues Mr Corbell and Mr Rugendyke as well as the secretariat for their valuable assistance. I commend the report to the house.

Question resolved in the affirmative.

Report No 61 of 2000

MR HIRD (4.35): I present report No 61 of the Standing Committee on Planning and Urban Services, entitled *Draft variation (No 140) to the Territory Plan—Existing Produce Market Sites—Greenway section 2 block 5 and Belconnen section 31 block 5*, including a dissenting report, together with extracts of the minutes of proceedings, and I move:

> That the report be noted.

Mr Deputy Speaker, I will be brief. Members will find that report No 61 of the committee uses a pretty succinct manner of reporting. Our recommendation is at the head of the report and the rationale for the recommendation is set out underneath. The remainder of the report describes the conduct of the inquiry and contains summaries of the evidence presented to the committee. All members of the committee are unanimous that the draft variation should apply to the Tuggeranong produce markets; but one member, my colleague Mr Corbell, considers that it should not apply to the Belconnen site. Mr Corbell, I am sure, will speak for himself at a later time.

Mr Deputy Speaker, I thank departmental officers and the operators of both the Belconnen markets and the area known as the Tuggeranong produce markets for their invaluable assistance. I thank the tenants of those markets and of adjacent shopping areas who made submissions to my committee. I thank the public in general. Also, I take the opportunity to thank the secretariat for assisting us in our deliberations. I commend the report to the house.

MR CORBELL (4.37): Mr Deputy Speaker, as Mr Hird has mentioned, I do not agree with the recommendation that draft variation No 140 to the Territory Plan, relating to existing produce markets, be agreed to in relation to the Belconnen markets. I think that it is of some regret that all members of the committee agreed to the proposal to endorse this variation in relation to the Tuggeranong produce markets.

Mr Deputy Speaker, the situation at Tuggeranong is regrettable. It is difficult to understand why a fresh food and produce market cannot be available to the people of Tuggeranong when one is already available to the people of Belconnen and to the people of the established areas of the inner north and inner south through the Fyshwick markets. It seems a strange quirk that we can have successful produce markets at Fyshwick and Belconnen, but not at Tuggeranong.

Nevertheless, it would appear that the Tuggeranong markets situation is too far gone and that a sensible proposal is needed to allow the existing owners of the markets to at least lease the site for a range of retail purposes. For that reason, there is a clear and compelling argument for some action in relation to Tuggeranong.

That cannot be said for Belconnen. The Belconnen markets are very successful local produce markets that provide cheaper fresh food and vegetables to people in the Belconnen area. The provision of such a service should be encouraged. PALM, in presenting this draft variation, argued for consistency between the two produce market sites. However, that consistency can only be justified if it is on the ground of the

situations being similar. It is quite clear that the situations at Tuggeranong and Belconnen are not similar. Tuggeranong is effectively defunct; Belconnen is extremely viable and popular.

Mr Deputy Speaker, I am concerned that if we allow this draft variation to proceed at Belconnen, we will have the situation where there will be an increasing tendency to allow other retail uses to move into that centre, to the detriment of the provision of fresh food and produce, which is the current condition of the Territory Plan. It is a viable, acceptable and successful market and no justification has been put forward to warrant an extension of the draft variation to Belconnen.

I hope that the government will adopt the position of recognising that this has to be an area-specific variation and that it should not be applied in a blanket way simply for convenience. Let us look at the issues, let us look at where the concerns are, and let us look at ways of addressing those concerns rather than adopting what has been a simplistic approach in incorporating both produce markets.

MR RUGENDYKE (4.41): Mr Deputy Speaker, I wish to add briefly to this discussion over the change to the plan regarding the Belconnen and Tuggeranong fruit markets. I could see quite clearly the need for the change to be made in respect of the Tuggeranong markets. My concern and, I am sure, the concern of other members of the committee has been with the plight of existing tenants who are currently struggling and who have struggled in the past. I am concerned that they may be treated unfairly by the landlords once this variation is passed in relation to the Tuggeranong markets.

We have been given assurances by the management of the Hyperdome that the current tenants will be treated fairly and that they will be treated reasonably. It was a conscious decision of the committee not to enter into the commercial aspects of the tenancies there, but to recognise and hold the Hyperdome to their assurances that the current tenants would not be disadvantaged. Of course, it remains a commercial decision whether the current lessees will take up the opportunity of a new lease under the revised proposal for the markets.

I had mixed feelings regarding the Belconnen markets. On balance, I think that for two reasons it is appropriate to change the lease purpose of the Belconnen markets in line with the change to the Tuggeranong markets. The first reason is that the Belconnen markets have run out of land, so there is a physical barrier to changing the mix at the Belconnen markets. The other is that, on balance, I did not see the need to keep one piece of yellow on the map in isolation. It seemed unnecessary to do that. Also, the Belconnen markets are thriving, are viable and are a wonderful shopping experience for patrons under the redevelopment by the Efkarpidis Group.

My continuing discussions with members of the Efkarpidis Group indicate that they have no intention of reducing in any way the amenity that exists at Belconnen, that it is to be retained essentially as it is now, as a fruit and fresh food market, but it is now able to recognise officially that there is room for other services, of which the cooking coordinates shop is one and the pasta shop is another. At one stage there was a garden centre there. There may be the opportunity to provide other services in conjunction with the provision of fresh fruit and vegetables, fish and butcheries.

Mr Deputy Speaker, on balance, I think that it was appropriate to treat both sites together and not leave one in isolation.

Question resolved in the affirmative.

Report No 62 of 2000

MR HIRD (4.45): I present report No 62 of the Standing Committee on Planning and Urban Services, entitled *Revised draft variation (No 89) to the Territory Plan: Murrumbidgee and Lower Molonglo Rivers—River corridors land use policy: Public land categories and other minor changes*, together with extracts of the minutes of proceedings, and I move:

> That the report be noted.

Mr Deputy Speaker, it could be said that I have saved the best of the reports that I am bringing in for last. This report is a unanimous report. It marks the end of a rather long process. Members will find this process outlined in the report. The essential issue is that agreement has been reached between Environment ACT and some rural lessees on the exact boundaries to apply to a proposed area of public land/nature reserve.

The committee compliments both officers of Environment ACT and the rural lessees on their willingness to enter into negotiations to clarify points of concern, and the committee was pleased to facilitate this process. Again, the committee's role in this inquiry involved elements of a municipal concern, reflecting the responsibility of this house for both state and local issues, which I mentioned earlier, Mr Deputy Speaker.

I thank those who entered into the negotiations for the goodwill that came about in bringing this report to the house. I also thank those who made a contribution through written and verbal submissions to the committee. I thank the Minister for Urban Services for allowing his officers to assist my committee. I would also like to put on record my appreciation of the staff of the committee who assisted in this matter. I commend the report to the house.

Question resolved in the affirmative.

**EDUCATION, COMMUNITY SERVICES AND RECREATION—
STANDING COMMITTEE
Report No 6**

MS TUCKER (4.48): I present report No 6 of the Standing Committee on Education, Community Services and Recreation, entitled *The draft three year strategic plan for preschools in the ACT*, together with extracts of the minutes of proceedings. Mr Speaker authorised the printing, publication and circulation of the report on 19 October 2000, pursuant to a resolution of the Assembly of 25 May 2000. I move:

> That the report be noted.

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

DOMESTIC ANIMALS BILL 2000
Detail Stage

Debate resumed.

Clause 51.

MS TUCKER (4.49): I move:

> No 9—
> Page 21, line 20, subclause (2), omit the subclause.

This clause raises a major philosophical issue for animal liberationists. It establishes an offence that a person must not knowingly encourage a dog to attack or harass someone else or an animal. That is quite reasonable. I do not think anyone would want people going around encouraging their dogs to attack other people or other dogs.

However, the clause goes on to provide the exclusion that it is not an offence if the defendant reasonably believed the animal being attacked was vermin and the defendant was on land with the lessee's consent. The exposure draft of this bill used the term "feral animal", and it was fairly clear that this exclusion was primarily to allow farmers to use dogs to hunt feral animals on their properties. This bill has changed "feral animal" to "vermin" but provides no definition of what vermin is.

The Oxford and Macquarie dictionaries define vermin simply as animals of a noxious, troublesome, undesirable or objectionable kind, which could easily include many different types of animals, depending on who is deciding what is a desirable animal or not.

While the Greens accept the need to actively manage populations of non-native animals in order to stop them damaging our natural environment, we also believe that all animals have a right to be treated humanely. If feral animals need to be killed, then this should be done as quickly and painlessly as possible. However, we do not think that allowing a feral animal to be bitten and ripped apart by a dog or pack of dogs is very humane or very efficient, if we are talking about managing a whole population of feral animals in a particular area.

The Animal Welfare Act prohibits the killing of any animal in a manner which causes it unnecessary pain. This provision which allows people to encourage dogs to kill other animals is contrary to the Animal Welfare Act. Obviously, some dogs will naturally want to hunt other animals that stray, and we do not blame them for that.

While we accept that dog owners should not be liable if their dogs attack such animals as rats and mice of their own volition, this is quite different to actively encouraging dogs to hunt other animals. Dogs cannot distinguish between an animal that is vermin and one that is protected. If we let people train their dogs to be animal killers, there is every chance that they will go after other animals and, possibly, people if given the chance.

The Greens therefore cannot support this part of the bill. We believe that encouraging dogs to attack other animals, even if they are only feral animals, is unethical and dangerous, because dogs will not be able to distinguish between classes of animal. I have therefore put up an amendment to delete this exclusion.

MR CORBELL (4.52): The Labor Party will not be supporting this amendment. I have discussed this amendment with a person from Ms Tucker's office. However, I am not convinced of the need for this amendment. Indeed, it could be argued that, if the amendment was successful, it would result in removing a provision which would mean the bill would then not have any clauses relating to animals attacking other animals or people. I do not think that is an acceptable outcome.

That aside, this bill does need to take some account of the practices which responsible rural leaseholders undertake in relation to managing their leases and animals on their leases. I take Ms Tucker's point about a definition of vermin. However, I would hope that this clause and this amendment would be dealt with in a reasonable way.

It is important to emphasise that the clause as it currently stands means that the onus is on the defendant to demonstrate that they reasonably believed the animal to be vermin when the dog attacked it. That places considerable onus on the person who is charged to demonstrate that what occurred was reasonable, and that it was not simply some exercise in inhumane sport, which I know is a concern.

I am not convinced of the need to omit this subclause. We do need to take account of the practices of rural lessees which are accepted practices in relation to management of rural leases. We cannot support the amendment.

MR SMYTH (Minister for Urban Services) (4.55): The government will also oppose the amendment, along the same lines as outlined by Mr Corbell. The Animal Welfare Act has a provision against cruelty. Anyone caught acting cruelly with a dog will be prosecuted.

Question put:

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

The Assembly voted—

Ayes, 1	Noes, 14
Ms Tucker	Mr Berry Ms Carnell Mr Corbell Mr Cornwell Mr Hargreaves Mr Hird Mr Kaine Mr Moore Mr Osborne Mr Quinlan Mr Rugendyke Mr Smyth Mr Stanhope Mr Stefaniak

Question so resolved in the negative.

Amendment negatived.

Clause 51 agreed to.

Clause 52 agreed to.

Clause 53.

MS TUCKER (4.59): I move:

> No 10—
> Page 22, line 7, subclauses (3), (4) and (5), omit the subclauses.

This clause is about the circumstances in which any person may legally kill a dog. There are three situations in which this can occur. The first two relate to a person killing a dog to stop an attack on themselves or another person or animal. I do not think anyone would want to allow people to take the law into their own hands and kill other people's dogs for some minor misdemeanour. But we accept that in this circumstance a person would be justified in killing a dog in self-defence.

However, we have problems with the third situation, where a person can kill a dog that is found in a field where there is an animal that has just been killed or attacked. This is really allowing a person to take the law into their own hands.

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

MS TUCKER: The dog is presumed guilty and sentenced to immediate death rather than presumed innocent until proven guilty. This provision is contrary to other parts of the bill regarding dangerous animals. In clause 59 an authorising officer can seize a dog only if they suspect the dog has attacked a person or animal. They cannot kill it. Then begins the legal process of seeking out the owner, examining the dog's registration and possibly prosecuting the owner, et cetera.

However, in this clause an ordinary person can immediately kill a dog if they suspect that it killed an animal in a field. This is quite unfair to the dog and its owner. There is also the chance that a person may kill the wrong dog if there are a number of dogs in the field at the time. I am therefore moving that these subclauses be deleted.

MR CORBELL (5.01): The Labor Party cannot support this proposal. Whilst I appreciate the philosophical issues surrounding how we view our relationship with animals and how we should approach the rights of animals, we also have to appreciate the situation in which rural leaseholders find themselves. If a rural leaseholder sees that a sheep has just been killed in one of their paddocks and they see a dog roaming about the paddock, what does Ms Tucker propose? That the dog be questioned? That seems to be the proposition.

Quite clearly, a rural leaseholder is not going to say, "I am not going to touch that animal, because I cannot be sure that it killed the sheep." Again Ms Tucker raises the proposition of an animal being detained and trying to establish whether there is a legal owner. I think you would have to say that in most instances—not all, but most—where an animal is found in a paddock and is presumed to have killed a sheep or some other animal on a farm there is not a registered owner. It would be a wild animal. We all know packs of dogs roaming around various rural areas in the territory do not have any registered owner. What does Ms Tucker propose that we do in that circumstance? I think that is something that has not been considered in this amendment.

I think it is quite reasonable for a rural leaseholder to take action to prevent a recurrence of an incident which they can reasonably suspect has just occurred. It is quite clear that this clause is meant to deal with that circumstance. It is unfortunate. It does run us into the barrier of the philosophical view about how we treat animals, but as part of our decision-making we also need to take account of the practical issues that confront rural leaseholders in trying to protect their stock from animal attack. We will support this clause and not the amendment proposed by Ms Tucker.

MR SMYTH (Minister for Urban Services) (5.04): The government stands by its clause. Mr Corbell has been quite eloquent on the subject. Subclause (5) says that a field includes a paddock, yard or other place. It is to protect rural lessees' stock and property.

MS TUCKER (5.05): I will respond to Mr Corbell's arguments. From living in the country and finding dead sheep and dealing with dogs, I know that it is not necessarily the dog that you find on the scene that killed the sheep. In our experience on the land, we have taken dogs, put them in a cage, found the owner and dealt with the matter in that way. It is not necessarily the case that the animal found has blood dripping from its mouth.

There is not anything in the bill to say you can kill the dog if it has blood dripping from its face. Even if it did say that, it would not necessarily mean that that dog had killed the animal. There is an issue of management of dogs being free. That is certainly a concern. As I said, I know that first hand from having lived in the country. It is clear that assumptions are being made and a right which is not justified is being given.

Amendment negatived.

Clause 53 agreed to.

Clauses 54 to 56, by leave, taken together and agreed to.

Clause 57.

MS TUCKER (5.07): I move:

> No 11—
> Page 24, line 6, omit the clause, substitute the following clause:
> "**57 Seizure—dangerous dogs**
> An authorised officer may seize a dangerous dog if—
> (a) the keeper of the dog has contravened a condition of a dangerous dog licence in force for the dog; or
> (b) a dangerous dog licence is not in force for a dog; or
> (c) the dangerous dog licence in force for the dog is cancelled.".

This clause is about the circumstances in which an authorised officer may seize a dangerous dog. A dog can be seized if there is no dangerous dog licence in force for the dog or if a dangerous dog licence has been cancelled. An authorised officer can also seize a dog if the keeper of the dog has contravened a condition of a dangerous dog licence and, having regard to the safety of the public, they believe the seizure is justified.

This last point seems quite weak compared to the other circumstances in which a dog can be seized merely because of some administrative problem of a dog licence not being in place. I would have thought the conditions would be placed on a dangerous dog licence only to protect public safety. If the conditions were broken, then this would logically create a threat to public safety. It therefore seems a bit superfluous for the authorising officer to have to assess whether the contravention of a condition of the dangerous dog licence is sufficient to warrant the seizure of the dog.

My amendment removes this requirement so that if the conditions of a dangerous dog licence are contravened then the dog can be immediately seized.

MR SMYTH (Minister for Urban Services) (5.08): The government will oppose the amendment, because it will widen the seizure powers. We believe the seizure powers are intended to be discretionary in every event. If there is no risk to public safety, you do not want to inhibit officers by saying, "The licence has been breached. Therefore you must take the dog away." Widening the powers in this way is not acceptable. Seizure should be discretionary. You should trust the officers on the spot to ascertain what the full circumstances are.

There may be a breach of the licence but there may be no threat to public safety. In that case speaking with the owner or education may be a better process. But if there is a threat to public safety then of course the dog would be seized. The government will oppose the amendment.

MR CORBELL (5.09): If there has been purely an administrative contravention of a condition of a dangerous dog licence, then clearly that does not of itself mean that there is any danger to the public. Ms Tucker's proposal, as the minister says, will require that any contravention will result in seizure. That is overly repressive. It is not required. The Labor Party agrees with the government that it is much better for discretion to be provided to inspectors so that a dangerous dog can be seized only where it can reasonably be presumed that there is some danger to public safety as a result of the contravention of a dangerous dog licence.

Amendment negatived.

Clause 57 agreed to.

Clauses 58 to 61, by leave, taken together and agreed to.

Clause 62.

MR SMYTH (Minister for Urban Services) (5.10): I move:

> No 11—
> Page 26, line 1, subclause (4), omit the subclause, substitute the following subclause:
> "**(4)** If the dog was seized under paragraph 56 (a), (b) or (c) (Seizure—generally) because of an act or omission that is an offence against this Act, the registrar must release the dog if—
> (a) 28 days have elapsed since the commission of the offence and a prosecution has not been begun for the offence and an infringement notice has not been served for the offence; or
> (b) an infringement notice has been served for the offence within 28 days after the commission of the offence and the infringement notice penalty has been paid; or
> (c) a prosecution for the offence was begun within 28 days after the commission of the offence and—
> (i) the prosecution is discontinued; or
> (ii) the keeper has been convicted or found guilty of the offence and the keeper has not been disqualified from keeping the dog, any dog, a dog of that kind or any animal.".

Mr Speaker, I'll speak to the next few amendments, because the amendments to clauses 62, 63 and 64 are the same. They have the effect of making further changes to clauses 63, 68 and 69. When that occurs, the notes in clauses 66 and 67 will refer to clause 68, which is somewhat convoluted. Subclause (4) of each of those clauses is about the return of a dog where an offence has been committed. The change to subclause (4) in each case ensures that the dog must be released to its owner when issues relating to the events have been resolved.

Amendment agreed to.

Clause 62, as amended, agreed to.

Clause 63.

MR SMYTH (Minister for Urban Services) (5.11): Mr Speaker, I seek leave to move amendments Nos 12 to 14 circulated in my name together.

Leave granted.

MR SMYTH: I move:

> No 12—
> Page 26, line 28, paragraph (3) (b), omit "57 (b)", substitute "57 (b) or (c)".
> No 13—
> Page 26, line 30, paragraph (3) (c), omit the paragraph.
> No 14—
> Page 27, line 4, subclause (4), omit the subclause, substitute the following subclause:
> "**(4)** If the dog was seized because of an act or omission that is an offence against this Act, the registrar must release the dog if—
> (a) 28 days have elapsed since the commission of the offence and a prosecution has not been begun for the offence; or
> (b) an infringement notice has been served for the offence and the infringement notice penalty has been paid; or
> (c) a prosecution for the offence was begun within 28 days after the commission of the offence and—
> (i) the prosecution is discontinued; or
> (ii) the keeper has been convicted or found guilty of the offence and the keeper has not been disqualified from keeping the dog, any dog, a dog of that kind or any animal.".

I have already spoken to these amendments.

Amendments agreed to.

Clause 63, as amended, agreed to.

Clause 64.

Amendment (by **Mr Smyth**) agreed to:

> No 15—
> Page 27, line 25, subclause (4), omit the subclause. substitute the following subclause:
> "**(4)** If the dog was seized under section 59 because of an act or omission that is an offence against this Act, the registrar must release the dog if—
> (a) 28 days have elapsed since the commission of the offence and a prosecution has not been begun for the offence; or
> (b) an infringement notice has been served for the offence and the infringement notice penalty has been paid; or

(c) a prosecution for the offence was begun within 28 days after the commission of the offence and—

(i) the prosecution is discontinued; or

(ii) the keeper has been convicted or found guilty of the offence and the keeper has not been disqualified from keeping the dog, any dog, a dog of that kind or any animal.".

Clause 64, as amended, agreed to.

Clause 65 agreed to.

Clause 66.

MR SMYTH (Minister for Urban Services) (5.12): I move:

No 16—
Page 28, line 18, subclause (1), note, omit the note, substitute the following note:
"*Note* Section 68 deals with the selling and destruction of dangerous dogs.".

This amendment is consequential on what we have just done.

Amendment agreed to.

Clause 66, as amended, agreed to.

Clause 67.

Amendment (by **Mr Smyth**) agreed to:

No 17—
Page 28, line 34, subclause (1), note, omit the note, substitute the following note:
"*Note* Section 68 deals with the selling and destruction of dangerous dogs.".

Clause 67, as amended, agreed to.

Clause 68.

MR SMYTH (Minister for Urban Services) (5.13): I seek leave to move two amendments together.

Leave granted.

MR SMYTH: I move:

No 18—
Page 29, line 28, subclause (1), omit ", but does not include a dog seized under paragraph 57 (c) (Seizure—general) because the dangerous dog licence for the dog is cancelled".
No 19—
Page 29, line 31, subclause (1), note, omit the note.

Amendments agreed to.

Clause 68, as amended, agreed to.

Clause 69.

MR SMYTH (Minister for Urban Services) (5.14): We oppose clause 69.

Clause 69 negatived.

Clause 70.

MS TUCKER (5.15): I move:

> No 12—
> Page 31, line 9, subclause (1), omit the subclause, substitute the following subclause:
> "**(1)** The keeper of a dog may only relinquish ownership of a dog—
> (a) by signed writing; and
> (b) if any fee is payable by the keeper under this Act in relation to the dog—when the fee has been paid.".

This clause allows the keeper of a dog to relinquish ownership of the dog. This is relevant where a dog has been impounded and the owner does not want the dog back. Once ownership is relinquished, the registrar is able to seek the sale of the dog or to kill it. The problem here is that this provision makes it very easy for dog owners to give up their responsibility to care for their dogs and increases the chance that a dog may be killed through no fault of its own.

My amendment therefore makes it a requirement that a keeper of a dog can relinquish ownership only after any outstanding fee payable under this legislation has been paid, so that at least a dog owner might think twice before giving up their responsibilities towards their pet.

MR SMYTH (Minister for Urban Services) (5.16): The government will oppose this amendment. Any fees payable are still payable by the owner after the dog is relinquished. Clause 70 sets out the procedure for the owner of a dog to relinquish a dog that has been seized. Once the dog is relinquished, it allows the registrar to sell the dog or destroy the dog without having to wait for the time required by other provisions of the bill. It is seven days after the notice of seizure was served on the owner for most dogs or 28 days for a dangerous dog.

The way we have it currently allows and owner to relinquish a dog by writing, and relinquishment comes into effect three days after the writing is received by the registrar. The amendment means that it will be possible to relinquish ownership only if the relevant fees have been paid. Until the fees have been paid it would not be considered that ownership of the dog had been relinquished. We think that is unwieldy and believe that the way the bill reads already is much better.

Amendment negatived.

Clause 70 agreed to.

Clause 71.

MS TUCKER (5.17): I move:

> No 13—
> Page 32, line 4, subclause (4), omit "paid", substitute "payable".

This clause is about the power of the registrar to return impounded dogs to their owners and raises an important issue for animal liberationists. They are very concerned about the potential for innocent dogs to be held hostage and possibly be killed just because the owner may not have sufficient funds at hand to pay a fine or fee to release the dog. This clause has been improved from the exposure draft, in that the registrar now has the power to remit any fee if satisfied that not to do so would cause the keeper financial hardship.

However, I think there is a drafting problem here in that subclause (4) implies that the registrar can remit a fee only after it is paid, which seems a bit odd, because the person is getting this remission only because they are in financial hardship and cannot pay the fee. It would seem better not to charge the person the fee in the first place. I have therefore put up this amendment to change the word "paid" to "payable", which would allow a person not to pay the fee up front but merely have it as a debt which the registrar can then cancel.

MR SMYTH (Minister for Urban Services) (5.18): The government will oppose the amendment on the grounds of bad English. Fees that have been paid are remitted. We expect the registrar to exercise the powers on compassionate grounds. It is not the intention to destroy a dog simply because somebody cannot pay a fee. The amendment that I will move will establish that the registrar must comply with any guidelines under the section. The guidelines will be disallowable instruments, so the Assembly will have oversight on how this is put into place.

MR CORBELL (5.19): The Labor Party will be supporting this amendment. It does seem reasonable to allow the registrar, on the grounds of economic hardship, not only to remit any fees that have been paid but also to remit any debt that might be outstanding. That would appear a reasonable approach and would cover situations such as that Mr Rugendyke raised earlier in the debate about the impact the legislation may have on low-income earners or people on fixed incomes.

It is important to recognise that an animal can have considerable social benefits as well as health benefits for its owner. To remove this somewhat arbitrary division which, from the words of the bill, it appears would apply would be valuable in recognising the economic hardship that some people may face in otherwise dealing with this provision.

Amendment agreed to.

Clause 71, as amended, agreed to.

Proposed new clause 71A.

MR SMYTH (Minister for Urban Services) (5.20): I move:

> No 21—
> That the following new clause be inserted in the bill: page 32, line 6:
> "**71A Guidelines about returning impounded dogs**
> **(1)** The Minister may, in writing, issue guidelines about the exercise of the registrar's functions under section 71.
> **(2)** The registrar must comply with any guidelines under this section.
> **(3)** The guidelines are a disallowable instrument.".

The purpose of this amendment is to issue guidelines concerning how the register would function and the provisions under which the power to return a dog will operate. It is disallowable and it will be overseen by the Assembly.

Proposed new clause agreed to.

Clauses 72 and 73, by leave, taken together and agreed to.

Clause 74.

MR SMYTH (Minister for Urban Services) (5.21): I move:

> No 22—
> Page 34, line 18, paragraph (3) (c), omit the paragraph, substitute the following paragraph:
> "(c) born before the commencement of this section.".

Clause 74 provides for an offence of not having a dog or cat de-sexed, unless the owner has obtained a permit. This provision is being amended to ensure that dogs and cats born before the commencement of this provision are exempt from the requirement. The existing paragraph (c) was intended to ensure that the owners would not be committing an offence. This intent is better implemented by taking into account the reason for the registrar issuing a permit to keep the animal entire. That is also the reason for the change to clause 76.

Amendment agreed to.

Clause 74, as amended, agreed to.

Clause 75 agreed to.

Clause 76.

MR SMYTH (Minister for Urban Services) (5.22): I move:

> No 23—
> Page 35, line 1, subclause (2), omit the subclause, substitute the following subclause:

"**(2)** The registrar must issue a permit for an animal if satisfied that—
(a) it is kept for breeding or used, bred or bought for show; or
(b) it would be detrimental to the health of the animal if it were to be de-sexed; or
(c) it is a racing greyhound.".

This amendment is consequential on the amendment we have just made to clause 74.

Amendment agreed to.

Clause 76, as amended, agreed to.

Clauses 77 and 78, by leave, taken together and agreed to,

Clause 79.

MR SMYTH (Minister for Urban Services) (5.22): I seek leave to move two amendments together.

Leave granted.

MR SMYTH: I move:

No 24—
Page 35, line 15, subclause (1), omit "a ranger", substitute "an authorised officer".
No 25—
Page 35, line 18, subclause (1), omit "a ranger", substitute "an authorised officer".

These are minor drafting amendments. Where we put in the word "ranger" we should have had "authorised officer".

Amendments agreed to.

Clause 79, as amended, agreed to.

Clauses 80 to 101, by leave, taken together and agreed to.

Clause 102.

MR SMYTH (Minister for Urban Services) (5.23): I move:

No 26—
Page 50, line 6, subclause (2), omit the subclause.

The provision has been amended by removing an extraneous subclause.

Amendment agreed to.

Clause 102, as amended, agreed to.

Clauses 103 to 110, by leave, taken together and agreed to.

Clause 111.

MR SMYTH (Minister for Urban Services) (5.24): I move:

> No 27—
> Page 55, line 2, subclauses (1) and (2), omit the subclauses, substitute the following subclauses:
> "**(1)** A person affected by an animal nuisance may complain in writing to the registrar about the nuisance.
> (**2)** The registrar must investigate the complaint unless satisfied that the complaint is frivolous or vexatious.".

Clause 111 provides the avenue which people will use to complain to the registrar concerning a nuisance animal. The provision is being amended to ensure that the registrar need not investigate a complaint if he feels it is frivolous or vexatious. We are all aware of the trouble a dog can cause in a neighbourhood. I do not want people to use this legislation to pursue vexatious claims against their neighbours. Hence the amendment.

Amendment agreed to.

Clause 111, as amended, agreed to.

Clause 112.

MS TUCKER (5.25): I move:

> No 14—
> Page 56, line 12, after subclause (4) insert the following new subclause:
> "(**4A)** A copy of a nuisance notice must be given to the person because of whose complaint the nuisance notice was issued.".

This amendment is about showing respect to persons who have initiated an animal nuisance complaint. Where the complaint results in the issue of a nuisance notice, this amendment will require the registrar to give a copy of the notice to the complainant so that they know what has happened to their complaint. This matches the existing requirement on the registrar under clause 111 to inform complainants if the register is not issuing a nuisance notice.

MR SMYTH (Minister for Urban Services) (5.25): The government will support the amendment.

Amendment agreed to.

Clause 112, as amended, agreed to.

Clauses 113 and 114, by leave, taken together and agreed to.

Clause 115.

MS TUCKER (5.26): I move:

> No 15—
> Page 58, line 2, omit the clause, substitute the following clause:
> "**115 Destruction of animals at registrar's request**
> A police officer or veterinary surgeon may destroy an animal at the registrar's request.".

The wording of this clause is a bit peculiar. It says that a police officer or veterinary surgeon who reasonably believes that the registrar has asked for the destruction of an animal may destroy the animal. I think that a request to kill an animal should be made very clear by the registrar and not be left to the discretion of the police officer or vet. There must be no doubt about whether an animal has to be killed or not, because there is no way that a dog killed in error can be brought back to life. My amendment states that killing an animal must clearly be at the registrar's request.

MR SMYTH (Minister for Urban Services) (5.27): The government will oppose this amendment. The clause empowers vets and police officers to put down animals that the registrar has decided should be put down. The current drafting allows the vet or the police officer to do so when they believe on reasonable grounds that the registrar has requested that the animal be put down. The amendment arguably requires the registrar requesting the police officer to destroy the dog. This will add substantially to administrative costs, since the registrar will need to ensure that the request is made to the vet and/or the police on duty on the day the work is to be done. We do not believe that that is an efficient way to carry out this work.

But even on Ms Tucker's drafting, the vet or the police officer will only be able to form a view about whether the registrar has requested the destruction of the dog based on reasonable belief. This is true even if the request is made in person after the registrar has produced identification and his or her notice of appointment. We believe the way we have worded the bill is adequate, and it should not be changed.

MR CORBELL (5.28): I would be interested to hear the minister's description of a situation where this clause would be used. The provision, as the minister explains it, allows for circumstances where an animal may be destroyed by a police officer or veterinary surgeon who reasonably believes that the registrar has asked for the destruction of the animal. Does the minister envisage that this clause would be used in situations where, say, an animal had been cited for destruction by the registrar, a police officer receives a complaint that an animal has attacked another animal or person, traps or otherwise finds the animal, believes it to be the animal the registrar has requested be destroyed and acts on that belief without further formal communications?

MR SMYTH (Minister for Urban Services) (5.29): The registrar will be accountable, and he or she will have only limited powers to destroy a dog. Each exercise of the power will need justification, and it will be possible only with proper documentation. Even a non-public servant deputy registrar exercising power for the registrar will be accountable in that way as well. We believe the way we have set the process out enables it to be carried out in an appropriate manner. We believe the way Ms Tucker would set it out would make it onerous for the registrar to give the authority to either the police officer or the vet.

MR CORBELL (5.30): I assume that is a yes from the minister; that that is the sort of circumstance that this clause is meant to address.

Mr Smyth: Yes.

MR CORBELL: The minister acknowledges that. On the grounds that that is the sort of circumstance which this clause is meant to address, the Labor Party is prepared to support the provisions of the bill and not Ms Tucker's amendment. We do not want a requirement for further formal communication to ensure that an animal which has been cited for destruction is destroyed when a police officer is on the scene and knows that the animal is behaving in a dangerous way and needs to be destroyed.

Amendment negatived.

Clause 115 agreed to.

Clause 116.

MS TUCKER (5.31): I move:

> No 16—
> Page 58, line 12, subclause (2), after "public" insert "and other animals".

This clause states that if an officer is required to kill a vicious animal that cannot be seized then the officer must consider the safety of members of the public. My amendment merely adds that the safety of other animals should also be considered.

MR SMYTH (Minister for Urban Services) (5.31): The government will support the amendment.

Amendment agreed to.

Clause 116, as amended, agreed to.

Clause 117 agreed to.

Clause 118.

MS TUCKER (5.32): I move:

> No 17—
> Page 59, line 30, after paragraph (l) insert the following new paragraph:
> "(la) refusing to issue a nuisance notice (section 111 (Complaints about animal nuisance)); or".

This amendment inserts an additional decision that can be reviewed by the AAT: a decision by the registrar not to issue an animal nuisance notice after a complaint is made. This seems only fair, given that in the reverse situation a person against whom a nuisance notice is issued can appeal against the notice. Giving complainants the right to

appeal against decisions not to act on a complaint also puts more pressure on the registrar to adequately investigate complaints rather than dismissing them too easily.

MR SMYTH (Minister for Urban Services) (5.32): The government will oppose the amendment. The clause sets out the list of decisions of the registrar that are reviewable by the AAT. The amendment proposed adds a decision to refuse to issue a nuisance notice under clause 111. We think the amendment should be opposed, because it allows persons dissatisfied with the outcome of their nuisance complaint to pursue neighbourhood disputes through the AAT. These complaints frequently arise in the course of neighbourhood disputes, and officers deal with them all the time.

The bill provides for the independent umpire, the registrar, to make the decision about whether or not the complaint about the nuisance animal is fair. If the registrar decides there is no basis for the complaint, he or she is required to provide information about how they can resolve the dispute by mediation. The amendment gives parties a very litigious option. We are trying to go the mediation route. We do not want this legislation being used as another tool in neighbourhood disputes. The government will oppose the amendment.

MR CORBELL (5.33): The Labor Party will not support this amendment either. Again, as the minister has said, disputes about animals are very common in our community. I am not convinced that allowing appeals to the AAT will ultimately resolve this issue. In fact, it will only potentially prolong neighbourhood disputes that can be better resolved in other ways.

The bill sets out other ways for complaints, about dogs particularly, to be addressed, and I would prefer to see those mechanisms utilised. However, if it does become apparent, following the commencement of this bill as an act, that there is a need for this sort of mechanism, the Labor Party would be happy to reconsider it. At this stage we are not convinced that it is required.

MS TUCKER (5.34): I did not hear either member address the fact that in the reverse situation there is an appeal right. The person against whom a nuisance notice is issued can appeal against the notice. That seems an unfair entitlement. If people are worried about neighbourhood disputes, this is one of the mechanisms by which such disputes can be resolved. If one party has greater rights to appeal than others, then that does not seem a very consistent approach.

Amendment negatived.

Clause 118 agreed to.

Clauses 119 to 121, by leave, taken together and agreed to.

Clause 122.

MS TUCKER (5.35): I move:

No 18—
Page 61, line 16, subclause (4), omit the subclause, substitute the following subclause:
"**(4)** A deputy registrar is a public servant for the time being performing the duties of the public service office mentioned in subsection (3).".

My amendments 18 and 19 relate to the same issue, which is how this legislation is administered. In the bill, the registrar is required to be a public servant, but deputy registrars and authorised officers, the people who go out and catch the animals and investigate complaints, do not have to be public servants but can be anyone appointed by the chief executive of the Department of Urban Services.

The explanatory memorandum states that this clause is to allow the domestic animal control services to be outsourced. The Greens have a big problem with the Liberal outsourcing agenda under the guise of the purchaser/provider model and competition policy. We believe that this policy approach has some major flaws, in that it removes valuable corporate memory, loyalty and expertise from within the public sector and replaces the objective of serving the public with cost minimisation and profit maximisation.

The Greens believe that regulatory functions should remain in government hands and not be subject to the profit motive. This issue has been debated many times in this Assembly in different contexts, and it appears that we have to fight this outsourcing agenda again. I am therefore proposing that the deputy registrars and authorised officers must be public servants.

MR CORBELL (5.37): The Labor Party will be supporting this amendment. I understand from our discussion with the minister earlier that some activities currently performed by the RSPCA could potentially be affected by this amendment. Nevertheless, the Labor Party has a strong position in relation to outsourcing of what it believes to be key government functions. I think most people in the community would regard the function outlined in this bill as a core function of government and not one that should be subject to outsourcing.

If the minister raises concerns about functions or activities that are performed by the RSPCA on behalf of the registrar, then I would encourage the government to introduce an amendment to deal with that position, but the Labor Party is not prepared to support amendments that pave the way for the outsourcing of this government service.

MR SMYTH (Minister for Urban Services) (5.38): It is curious, for instance, that the people who look after our children do not all have to be public servants, yet the people who have to look after and police animal welfare do. We believe it is important that we have that flexibility and that, should Domestic Animal Services be market tested, the registrar has the ability to empower deputy registrars. The important thing to remember is that the registrar will always be a public servant. The deputy registrars will be able to exercise their powers only at the discretion of the registrar and at the registrar's direction. Clause 122(2) clarifies that. The authorised officers are subject to the direction of the registrar—that is covered by clause 123(2)—and there will be adequate safeguards on the provision of those functions.

It does raise the question of the RSPCA. It also raises the question of whether or not government is the best and only organisation that can provide this service. For instance, the RSPCA currently provide us with animal welfare officer services. Those animal officers have been called to places like Parkwood and asked to investigate suspected breaches of legislation. We believe it is reasonable to empower people other than public servants to be the deputy registrar, and therefore we will oppose this amendment.

MR CORBELL (5.39): There is a significant difference between an individual working for a non-profit body like the RSPCA performing these functions and a person working for a private company on contract performing these functions. There are recognised examples across a range of legislation of the territory that provide for individuals who represent organisations akin to the RSPCA to perform these types of functions. The Labor Party has no difficulty with that, and we welcome the involvement of the RSPCA previously and in the future in relation to some of the responsibilities under this legislation and under the Animal Welfare Act. Those responsibilities should be maintained. I would encourage the minister to put forward amendments that deal with that particular provision.

It is quite clear from the explanatory memorandum that this provision does not necessarily deal with the RSPCA, even though the minister raises it now in his speech. It deals with the potential for outsourcing, and that is not an acceptable approach to the delivery of government services in this regard. The minister should accept that and put in place some provisions that deal with those other circumstances which he has outlined.

Question put:

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

The Assembly voted—

Ayes, 7	Noes, 8
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Kaine	Mr Moore
Mr Quinlan	Mr Osborne
Mr Stanhope	Mr Rugendyke
Ms Tucker	Mr Smyth
	Mr Stefaniak

Question so resolved in the negative.

Amendment negatived.

Clause 122 agreed to.

Clause 123.

Amendment (by **Ms Tucker**) negatived:

No 19—
Page 61, line 27, subclause (4), omit the subclause, substitute the following subclause:
"**(4)** An authorised officer is a public servant for the time being performing the duties of the public service office mentioned in subsection (3).".

Clause 123 agreed to.

Clauses 124 to 140, by leave, taken together and agreed to.

Proposed new clause 140A.

MR SMYTH (Minister for Urban Services) (5.45): Mr Speaker, I move:

No 28—
That the following new clause be inserted in the Bill: page 68, line 27:
No 28 –
"**140AFalse or misleading statements**
A person must not, in purported compliance with a requirement under this Act—
(a) state anything to the registrar or an authorised person that the person knows is false or misleading in a material particular; or
(b) omit from a statement made to the registrar or an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.
Maximum penalty: 20 penalty units.".

This new provision makes it an offence to provide false or misleading statements.

Proposed new clause agreed to.

Clause 141.

MS TUCKER: I move:

Page 69, line 8, Penalty, omit "10", substitute "5".

This amendment reduces the penalty from 10 penalty units to five penalty units for a person not returning a registration certificate or dog tag within seven days if their payment of a fee by cheque or credit card is dishonoured. A 10-unit penalty seems excessive compared to similar offences in the legislation that incur only five penalty units—offences such as failing to tell the registrar that ownership of a dog has been transferred, keeping an unregistered dog, failing to tell the registrar of a change of address, or allowing a dog to wear a registration tag that was not issued to that dog. At least the person has made the effort to pay their bill, so I do not think we should be too hard on them for not having enough money in their account.

Amendment agreed to.

Clause 141, as amended, agreed to.

Clauses 142 to 146, by leave, taken together and agreed to.

Clause 147.

MR SMYTH (Minister for Urban Services) (5.47): I move:

> No 29—
> Page 70, line 32, insert at the end the following new subclause:
> "**(2)** The regulations may create offences for contraventions of the regulations and prescribe penalties of not more than 10 penalty units for offences against the regulations.".

This amendment provides for the regulation-making power of the bill.

Amendment agreed to.

Clause 147, as amended, agreed to.

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

Bill, as amended, agreed to.

ANIMAL WELFARE AMENDMENT BILL 2000

Debate resumed from 7 September 2000, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR SMYTH (Minister for Urban Services) (5.48): I move:

> Clause 6, page 4, line 12, proposed new subsection 15A (1), omit "on the open back of", substitute "in or on".

This amendment clarifies how you restrain a dog in a vehicle. It is not limited to the back of a ute, for instance. It includes dogs in or on a vehicle.

I present a supplementary explanatory memorandum to the amendment.

Amendment agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 5.49 pm