DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

30 November 2000

Thursday, 30 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.

PUBLIC SECTOR MANAGEMENT AMENDMENT BILL 2000

Mr Humphries, pursuant to notice, presented the bill, its explanatory memorandum and draft management standards.

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (10:32): I move:

> That this bill be agreed to in principle.

This bill amends the Public Sector Management Act 1994 and the Fire Brigade (Administration) Act 1974 to introduce a new legislative framework for discipline, inefficiency and review arrangements in the ACT public service. Since the creation of a separate ACT public service, the Public Sector Management Act has tied the ACT public service to a system of review of employment related decisions under the Commonwealth Merit Protection (Australian Government Employees) Act 1984. Similar links existed for staff employed under the Fire Brigade (Administration) Act. Last year the Commonwealth repealed the Merit Protection Act and introduced a new system of review as part of its own legislative reforms.

As a result of these changes, the Assembly passed amendments to the Public Sector Management Act and the Fire Brigade (Administration) Act late last year to preserve the existing review systems, notwithstanding the repeal of the Merit Protection Act. In introducing these interim arrangements, the former Chief Minister flagged that further amendments were required to achieve an ACT public service review framework.

As with the Commonwealth, it was also time for the ACT public service to move on. In particular, it was time to move away from reliance on Commonwealth legislation that even the Commonwealth agreed was outdated, overly legalistic, complex and entirely inappropriate for a modern workplace.

Mr Speaker, this bill will replace the old discipline, inefficiency and review arrangements with a system that is simpler, less legalistic and focuses on the practical resolution of issues at the workplace level, with a second tier review right to the Commissioner for Public Administration on procedural grounds. In developing this framework, the government has taken note of the changes that agencies have already agreed with staff and unions through certified agreements.

Agency certified agreements that deal with these issues will continue to apply where they are inconsistent with the provisions of this bill. Therefore, the arrangements under the bill apply only where an agency has not specifically inserted new discipline and inefficiency arrangements in certified agreements.

In summary, the bill:

- puts in place an effective right of review that does not rely on repealed Commonwealth laws;
- balances employees' rights and the public interest in achieving a fair and more responsive system for the handling of disciplinary and inefficiency cases;
- introduces a simplified two-tier review process with a greater focus on departmental responsibility for ensuring fair decisions but with a procedural review role for the Commissioner for Public Administration;
- streamlines review mechanisms for termination decisions so that the Public Sector Management Act does not duplicate termination review rights where review is already available under the federal Workplace Relations Act;
- specifies arrangements to ensure a smooth transition in regard to disciplinary or inefficiency cases already on foot; and
- applies the amended discipline, inefficiency and review framework under the Public Sector Management Act to staff employed under the Fire Brigade (Administration) Act.

The bill sets out the responsibilities and authority of chief executives and the commissioner, as well as the rights of ACT public service employees. Procedural and administrative arrangements are kept to a minimum, but with clear statements of the need to comply with natural justice standards.

The changes also include new rights such as rights for employees to obtain reasons for employment decisions. Although the Administrative Decisions (Judicial Review) Act 1989 provides for judicial review of many decisions made under the Public Sector Management Act, a right to reasons for employment decisions is not available under schedule 2 of the Administrative Decisions (Judicial Review) Act 1989. Further procedural guidance will be provided through the management standards under existing provisions in section 251 of the Public Sector Management Act.

The bill also deals with some necessary technical changes to the temporary employment provisions under the Public Sector Management Act to exclude part-time apprenticeships from the five-year limit on fixed term temporary employment. This brings the act in line with new award provisions. The bill also permits a chief executive to re-engage a former temporary employee for the specific purpose of undertaking a compensation rehabilitation program.

Mr Speaker, ACT public service and fire brigade staff and unions have been consulted on these proposals following tabling of an exposure draft of the bill in June this year. Unions in particular have put forward strong views regarding the direction of the bill. I am pleased to say that a number of points of concern have been addressed in the bill and in the draft management standards that I also have tabled. For example, the bill now includes additional references to natural justice and avoidance of conflicts of interest to

make sure that these requirements apply at both decision and review stages. Unions have raised a number of substantive policy issues that have not been taken up. However, I hope that further consultation on the basis of the bill and the draft management standards may settle these issues.

Mr Speaker, unions have sought the inclusion of a range of procedural guidance in the bill. The government has instead preferred a higher level statement in the bill, with procedural detail in the draft management standards. As subordinate laws, the standards are disallowable. Therefore, it is possible to achieve the right balance through a more enduring framework and statement of obligations and rights in the primary law, complemented by the detail in the management standards. There is capacity for the commissioner to make further procedural directions or for agencies to develop particular procedures, although these would need to be consistent with the legislative framework, which includes natural justice standards.

Mr Speaker, unions have also suggested review of all employment decisions, including general grievances, through a system of review panels including union representatives in all cases. It was proposed that these panels would make recommendations to the Commissioner for Public Administration for final decision-making. This proposal was made on the understanding that it was consistent with what had been agreed by agencies and staff under certified agreements. However, processes in certified agreements do not mandate union nominees and do not include the commissioner as decision-maker. Where panels are used, they include a convenor appointed from a list maintained by the commissioner, a departmental nominee, as well as a staff or union nominee at the election of the staff member seeking the review. The panels make recommendations to the chief executive, who is the final decision maker. Further, review panels would not generally be convened to investigate general grievances.

While agencies, staff and unions agreed to these processes in response to conditions at the time of negotiating enterprise agreements, different options were available in drafting this bill. The new arrangements to promote the independence of the office of the Commissioner for Public Administration, separate from executive responsibilities in my department, has brought forward an important option for second tier review. Therefore, the preference expressed in certified agreements that decisions should be agency based has been complemented by external procedural review.

The flexibility inherent in enterprise bargaining processes means that agencies can continue to make arrangements with staff to establish particular procedures, whether they be panel based or with or without union involvement. Certified agreements provide the capacity to respond to local operational and industrial conditions.

The legislative framework set out in the bill would be a default framework that applies where certified agreements do not apply. However, it is one that provides a high standard of rigorous review as well as an appropriate balance of public interest and individual rights.

Another issue flagged in consultation with the unions is the inclusion of wilful inefficiency as a ground for misconduct. Mr Speaker, nobody could seriously expect that ongoing careless or deliberate poor performance should be ignored. This ground was included to complement the existing requirement for public employees to perform duties

with reasonable care and skill. Capacity to deal with those issues is often a serious morale issue for the majority of staff. This provision sends a clear message that deliberate poor performance will be treated as misconduct rather than warranting the assistance and support that is appropriately reserved for those that are genuinely struggling to meet the required standards of performance.

One of the concerns raised in consultation with unions was that this term should be defined. We have looked at this possibility, but considered that a definition in the bill would inhibit treating each case on its merits, taking full account of individual circumstances. This is beneficial, promoting more responsive decision-making. Again, these decisions are subject to internal review by chief executives and procedural review by the commissioner. Detailed procedural guidance for the handling of wilful inefficiency will be included in the management standards.

Mr Speaker, the bill also amends the Fire Brigade (Administration) Act to apply the proposed new ACT public service arrangements for discipline, inefficiency and review of employment related decisions to staff of the Fire Brigade.

The historical arrangements where Fire Brigade staff have a different code of ethics and different discipline and review arrangements to those of the rest of the ACT public service is no longer appropriate. The intent of this bill in relation to the Fire Brigade is to introduce a consistent management framework for the public sector within which local issues can be dealt with under enterprise bargaining arrangements. Consultation on the exposure draft has resulted in some changes to the bill. The draft management standards provide a clearer operational context for the bill.

This bill provides a framework for public service review rights that relies on ACT laws and agency-level resolution of employment issues. The bill reflects a balance of individual rights and the need to efficiently maintain performance and conduct consistent with the high standards expected of public sector employment. It provides for clearly stated and fair processes, with the benefit of second tier review by the commissioner.

Mr Speaker, I commend this bill to the Assembly.

Debate (on motion by **Mr Berry**) adjourned to the next sitting.

PUBLIC SECTOR LEGISLATION AMENDMENT BILL 2000

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (10.43): I move:

> That this bill be agreed to in principle.

The Public Sector Legislation Amendment Bill 2000 makes minor amendments to the Public Sector Management Act 1994, the Fire Brigade (Administration) Act 1974 and the Legislative Assembly (Members' Staff) Act 1989 to remove sunset clauses relating to public service review rights. It is necessary to remove these sunset clauses to ensure that those ACT public servants who are not covered by agency-based discipline and review processes in certified agreements retain access to existing public service review rights.

Since the creation of a separate ACT public service, the Public Sector Management Act has tied the ACT public service to the Commonwealth system of review for employment related decisions under the Merit Protection (Australian Government Employees) Act 1984. Similar links also existed for the staff employed under the Fire Brigade (Administration) Act and the Legislative Assembly (Members' Staff) Act.

Last year, Mr Speaker, as members have heard, the Commonwealth government introduced a new legislative framework for the Australian public service, including a different system of review for employment related decisions. As a result of this, it was necessary for the ACT to make some minor changes to our laws to retain ACT public service access to existing review rights.

The Public Sector Legislation Amendment Act 1999 amended the Public Sector Management Act, the Fire Brigade (Administration) Act and the Legislative Assembly (Members' Staff) Act to provide interim access to the Commonwealth Merit Protection Commissioner, in lieu of the abolished Merit Protection and Review Agency, until 31 December 2000.

It is important to note that the arrangements set in place by the Public Sector Legislation Amendment Act were interim in nature. Expiry provisions were included, as there was some uncertainty about the Commonwealth's long-term support for the ACT arrangements. The Commonwealth has since confirmed that these arrangements may continue on a fee for service basis.

It is desirable, however, that we have a system of review embedded in ACT laws, rather than relying on the Commonwealth to legislate in this area. Last year, the government gave a commitment to introduce a new ACT legislative framework for discipline, inefficiency and review. The Public Sector Management Amendment Bill, which I have just tabled, provides for this new framework.

However, as there is limited opportunity for debate of the new legislative framework before the operation of the sunset clauses on 31 December this year, it is now proposed to remove these sunset provisions. This means staff retain access to those review rights until the Assembly can consider the new framework. I am sure that most members will support this approach, and I commend the bill to the Assembly.

Debate (on motion by **Mr Berry**) adjourned to the next sitting.

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2000

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (10.47): I move:

That this bill be agreed to in principle.

I seek leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

The speech read as follows:

Mr Speaker, this is the fourth Bill in a series of bills dealing with legislation within the justice and community safety portfolio. As with previous portfolio bills, the opportunity has also been taken to revise and simplify the legislation being amended.

Substantive changes will overcome difficulties in administering some portfolio laws. For example:

• amendments to the *Sale of Motor Vehicles Act will* enable a broader range of matters to be taken into account when considering the suitability of a market participant. The existing cumbersome system of inquiries is to be replaced by a streamlined "show cause" process.

• amendments to the *Second Hand Dealers and Collectors Act will* remove a number of archaic business rules and permit regulations be made to ensure that this market does not become an outlet for organised crime.

Other amendments will provide improve the regulatory systems for both industry and consumers:

- a number of refinements are made to trade measurement legislation which will, for example, remove the need for each person in a small business to seek a service licence and require sale by weight to exclude the weight of any packaging.

- amendments to the Liquor Act will permit licence fees to be paid by instalment.

Finally a number of amendments have been included to clarify or rectify problems in the law:

- the *Children and Young People Act 1999* is amended to provide that it is an offence to publish an account or report of the proceedings if that publication discloses the identity of the child or young person or a family member or allows the identity of any of those people to be worked out (unfortunately, this provision was inadvertently omitted during the drafting of the current Act).

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- Similarly, protection is restored to those who made notifications of child abuse under the old *Children's Services Act 1986.*

- the Registrar of the Magistrates Court is expressly authorised to exercise the powers of the Court to adjourn and continue unserved interim Restraining Orders.

- other amendments clarify the interaction between the *Powers of Attorney Act 1956* and the *Mental Health (Treatment and Care) Act 1994.*

Mr Speaker, as with previous portfolio bill amendments, the Government is confident that these amendments will lead to the more integrated and efficient delivery of Government services.

Mr Speaker, I commend the Bill to the Assembly.

Debate (on motion by **Mr Wood**) adjourned to the next sitting.

LEGISLATION (ACCESS AND OPERATION) BILL 2000

Mr Humphries, pursuant to notice, presented the bill and the explanatory memorandum to the following bills:

Legislation (Access and Operation) Bill 2000.
Legislation (Access and Operation) (Consequential Provisions) Bill 2000.

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (10.48): Mr Speaker, I move:

That this bill be agreed to in principle.

This bill sets in place the legislative framework to support the public access to legislation project, an initiative that will put the ACT at the forefront of legislative access provision in Australia.

The central element of the initiative is establishing an authorised, electronic statute book, the ACT legislation register, which would be published on the Internet to provide free public access to authorised versions of ACT legislation and other legislative material.

Significantly, no other Australian jurisdiction has yet authorised its legislation in electronic form. This pioneering step will promote the ACT's reputation for technology-based innovation. It will also ensure a level of legislative access that is not only free, convenient and comprehensive, but also backed by statutory presumptions to support its authoritative status.

The initiative will change the emphasis in publishing legislation from printed to electronic form. However, legislation will continue to be made available in printed form. In fact, the legislation register will facilitate the on-demand production of authorised

versions of printed legislation. In addition, for users without Internet facilities, on-line access to the register will be provided in convenient places—for example, the ACT Shopfront and ACT public libraries.

The system underlying the publication of printed legislation has changed little in decades. It is paper based, requires extensive manual administration, and is inherently clumsy, slow and costly. It does not take advantage of well proven, publishing technology or the ACT's modern IT infrastructure.

With the rate of legislative change, it is impossible to satisfy the demand for timely, printed copies of up-to-date legislation, or make them available for purchase at a reasonable cost. This, in turn, has consequences for government, special interest groups and the community generally.

For example, it is a basic principle of our legal system that people are presumed to know the law, and that ignorance of the law is no excuse. An ability to reasonably access the law undermines this important principle. Business, particularly small business, is disadvantaged by the current paper-based system. Business must comply with licensing and other regulatory requirements and meet the associated costs. As these entitlements and obligations are often subject to legislative change, business must have ready access to reliable, up-to-date legislation to make informed decisions and minimise regulatory costs. Small business is particularly disadvantaged by the current paper-based system.

Ordinary citizens also have important entitlements and obligations fixed by legislation. Without an efficient and economical means of accessing up-to-date legislation, they often have difficulty getting answers to basic questions. For the courts and law enforcement agencies, the importance of having quick access to authoritative, up-to-date legislation is self-evident.

Advances in computer technology have made Internet publishing a practical and economic way of providing the public with quick access to up-to-date, reliable information. The legislation register will display ACT legislation and related information in PDF format. PDF—portable document format—is used extensively for Internet publications in both the public and private sectors. It is a simple, well-proven, low-cost and highly effective publishing format that has the additional benefit of preserving the printed form of documents. PDF documents display and print consistently regardless of the kind of computer used. They are also highly secure.

The provision of ACT legislation in authorised electronic form will bring substantial cost and productivity savings across government and to the community generally. For example, there will be ongoing productivity gains across government arising from fast and reliable access to the relevant current law by government officials. Given the extent of legislation usage by legislators, courts, tribunals and senior administrators, these will be substantial.

There will be savings across government and in the private sector arising from a reduced need to purchase printed legislation. In the area of education, free Internet access to up-to-date and authoritative legislation will significantly benefit the many students, educators and educational institutions involved in the legal studies courses offered by Canberra's universities and secondary colleges. For people with significant sight

impairment, the register will provide the first real opportunity to access authorised versions of legislation directly using screen reader technology. Current software developments are expected to make future releases of PDF files readable in this way. The register will be developed in consultation with the ACT Human Rights Office to cater for the needs of people with disabilities.

A further benefit from this initiative is that the legislation register will make accessible legislative material that, under current circumstances, is virtually inaccessible to most people—for example, historical versions of legislation, approved forms and other statutory instruments notified only in the *Gazette*.

The Legislation (Access and Operation) Bill supports the implementation of the legislation access initiative in the following three ways:

- encouraging access to authorised, electronic versions of legislation on approved Internet sites while maintaining access to authorised printed legislation;
- restructuring, restating and simplifying the relevant legislation governing the life cycle of ACT legislation; and
- assisting users by providing up-to-date republications of legislation in a readily accessible statute book.

The bill establishes the ACT legislation register, which will include the following material:

- authorised republications of acts and statutory instruments as enforced from time to time;
- each of the following as enacted or made—acts, subordinate laws, disallowable instruments, approved forms, commencement notices and other statutory instruments presently required to be published and notified in the *Gazette*;
- notifications of the making of acts, subordinate laws, disallowable instruments, approved forms, commencement notices and other statutory instruments presently required to be published and notified in the *Gazette*; and
- notifications of any amendments of subordinate laws or disallowable instruments by the Legislative Assembly.

The register could also contain, or provide links to, related material, such as repealed legislation, superseded versions of authorised republications or bills and explanatory memoranda for bills. The notification of enactments and legislative instruments on the legislation register will end the current need to notify them in the *Gazette*. These costly, short-form notices, which fail to provide the text of the law notified, will be replaced by immediate full text publication on the Internet.

The bill will bring together in a single act all the machinery of government law relating to the various stages of the legislation life cycle—for example, notification commencement, publication, disallowance (for subordinate laws and disallowable instruments), amendment, republication and repeal. The intention is to make the law easier to find and understand. At present, it is scattered through several acts and is sometimes not easy to find, let alone use. The Legislation (Access and Operation) (Consequential Provisions) Bill would omit the relevant provisions from those acts.

The bill also deals comprehensively with the following related matters:

- numbering of legislation;
- presentation (tabling) and disallowance of subordinate laws and disallowable instruments;
- commencement of legislation and exercise of powers under uncommenced provisions;
- evidentiary value of authorised electronic and printed versions of legislation;
- repeal and amendment of legislation; and
- reference to laws.

Although the bill contains transitional provisions to enable registration to replace gazettal, it is proposed that all ACT laws and subordinate laws will be reviewed and amended as necessary to bring them fully into line with the new legislative framework—for example, changing statutory instruments required to be notified in the *Gazette* into registrable instruments and making approved forms notifiable instruments. A bill to make the necessary consequential amendments will be presented to the Legislative Assembly as early as possible in 2001.

It is also proposed that another bill will be prepared and presented later in 2001. The bill would amend the Legislation (Access and Operation) Act to include the remaining provisions of the Interpretation Act 1967 in a remade form. The remaining provisions would provide a simplified, comprehensive, up-to-date set of provisions for the interpretation of ACT legislation. This would bring all the key provisions about ACT legislation into a single act for the first time.

Simplified, comprehensive, up-to-date legislation for the interpretation and publication of ACT legislation will ensure the territory enjoys the many benefits of first class access to its legislation well into the future, and considerably enhance the way that citizens are able to use the laws of the territory.

Mr Speaker, I commend the bill to the Assembly.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

LEGISLATION (ACCESS AND OPERATIONS) (CONSEQUENTIAL PROVISIONS) BILL 2000

Mr Humphries, pursuant to notice, presented the bill.

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (10.58): Mr Speaker, I move:

> That this bill be agreed to in principle.

This bill is consequential on the enactment of the Legislation (Access and Operation) Bill. I commend the bill to the Assembly.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

STATUTE LAW AMENDMENT BILL 2000 (NO 2)

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (10.59): Mr Speaker, I move:

> That this bill be agreed to in principle.

I ask for leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

The speech read as follows:

> Like the Statute Law Amendment Bill 2000 and a number of similar Bills in previous years, this Bill makes technical and housekeeping amendments of Territory laws. It is intended to improve the statute book by updating provisions, correcting errors and repealing legislation of no current use.
>
> This Bill is the second in the technical amendments program that the Government approved last year. The objectives of the program are to develop a simpler, more coherent and accessible statute book for the Territory by means of minor legislative changes. Members will recall that guidelines for the program were circulated to Members earlier this year.
>
> The underlying idea, Mr Speaker, is that, although few of the changes would justify a separate Bill, periodically a number of minor amendments will be brought together in a Statute Law Amendment Bill. These will facilitate the continuing program for reprinting the laws of the Territory, assist in removing the 'dead wood' from the statute book, and ensure that the statute book is kept up-to-date. It is important to appreciate that the amendments would be of a non-controversial nature.
>
> As a general rule, Statute Law Amendment Bills deal with four kinds of matters. First, minor amendments proposed by government agencies to rectify minor problems that come to the attention of agencies during the course of administering their legislation. Schedule 1 of the Bill before the Assembly contains such amendments. These amendments are included in Schedule 1 so they can be readily identified.
>
> The second kind of matter in Statute Law Amendment Bills are amendments proposed by the Parliamentary Counsel's Office of the *Interpretation Act 1967* and other Acts of general application or that otherwise affect the structure of the statute book. Structural changes are particularly focused on minimising duplication in the statute book by ensuring the maximum degree of consistency where there is no countervailing policy or operational requirement. Schedule 2 of the Bill contains provisions of this nature.

The third class of matter is technical statute law revision amendments, as traditionally understood, proposed by the Parliamentary Counsel's Office. In other words, changes in the text of the law that update provisions and make them clearer and easier to understand without making any significant change in their operation or legal effect. Amendments of this nature may be found in Schedule 3 of the Bill.

Finally, Statute Law Amendment Bills periodically repeal Acts and subordinate laws that have become obsolete or are no longer needed. Schedules 4 and 5 contain such repeals.

Bearing in mind the rather technical nature of the Bill, I will not go into the detail of the amendments and repeals in the Bill. However, I should point out that the Bill itself contains rather detailed explanatory notes that Members may find helpful. The Parliamentary Counsel is also available to provide any additional explanation or information that Members need.

Mr Speaker, I am conscious that the value of 'housekeeping' Bills of this kind can be easily overlooked. However, the Territory has an obligation under the Self-Government Act to publish Territory laws. To achieve this, the statute book needs to be properly maintained.

The Bill is another step in the process of ensuring that the Territory's statute book is of the highest standard and serves the interests and aspirations of the people of the Territory.

Mr Speaker, I commend the Bill to the Assembly.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

COURT SECURITY BILL 2000

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (11.00): Mr Speaker, I move:

That this bill be agreed to in principle.

I ask for leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

The speech read as follows:

Mr Speaker

The Territory does not, at the present time, have legislation which addresses the issue of security on court premises. Such legislation exists in other jurisdictions, such as Victoria, Queensland and the Commonwealth. When the justices of the ACT

sit in the Federal Court they have the benefit of court security legislation, but when they sit in the ACT Supreme Court there is no such protective legislation.

One of the cornerstones of our civil and criminal justice systems is that justice should be administered openly and, thus, that proceedings should be open to any member of the public who wishes to observe them. This right to observe legal proceedings is, of course, subject to some necessary qualifications, for example with respect to proceedings in the Children's Court or before the Mental Health Tribunal.

Further, the court registry is a place where members of the community, be they individuals or members of a business or organisation, generally have a right of access to allow them to issue proceedings, pay debts or fines, or carry on their business.

Breaches of court security are, thankfully, not commonplace in the ACT. There have been relatively few occasions to date where persons have disrupted the workings of the court to such an extent that they have needed to be removed from court premises. Further, there have been few occasions where the sensitive or notorious nature of proceedings before the court have required that screening and search procedures be implemented to check the persons who wished to observe the proceedings.

However, from time to time court staff do receive information of possible disruption to court proceedings. For example, during the course of one criminal trial involving witnesses who were serving lengthy prison sentences in the special purposes prison at Long Bay, information was provided to court staff that an attempt may have been made at the trial to free the prisoners. Fortunately, on that occasion no attempt to escape was made.

Concerns have been expressed to me by court staff about the limitation of their current powers to deal with court security issues on the few occasions when they arise. The concerns relate to the methods that court staff can employ to remove persons from court premises on those occasions when the police are not available, and any potential liability that they may face for carrying out their duties.

It is the responsibility of the Territory Government to balance a person's right of access to the courts with the need to ensure the safety of court staff and persons who use the court or simply wish to observe proceedings. With that responsibility in mind, I present the Court Security Bill 2000. As its name suggests, the Bill deals with security arrangements for ACT courts and tribunals.

The Bill emphasises the right of a person to enter and remain on court premises. The Bill also acknowledges that the security measures provided in the Bill operate in addition to any other powers that may relate to court security. For example, at common law a judge has the power to hear evidence in private in certain circumstances, or to punish a person for contempt.

The security measures which can be applied to ensure safety on court premises include powers to require a person to identify themselves and provide proof of identity; powers to require a search of personal property, such as bags, to facilitate checks for weapons or explosives hidden in such places; powers to require that a person submit to a screening search, similar to the searches carried out at an airport; and powers to require that a person permit a "pat down" of outer clothing, again to check whether a person has a weapon or explosives under his or her clothes.

The Bill formalises the power of a judge or magistrate to order that a person, or a class of persons, be removed or excluded from court premises.

If a person attending at court does not wish to submit to a search of their property or person, he or she can simply choose to leave the court premises.

The power to eject gives police and other security officers the option of ejecting a person, instead of using powers of arrest or detention. However, the Bill does restrict the powers of security officers to eject a person who identifies himself or herself as a person who is attending at court to answer a subpoena, bail or other court process. In these cases a person can only be refused entry or required to leave with the court's permission.

The powers are consistent with the powers that exist in the Commonwealth jurisdiction, in the Family Court and the Federal Court. As with the practice in these courts, it is not intended that every person who wishes to enter a court in the Territory will be subjected to a search. The Bill covers those situations where there is a possibility that court security will be breached. To provide "Watered down" legislation may result in court security not being effective when it is ultimately needed.

The Bill contains provisions enabling the new powers to be exercised by police, the sheriff and his or her staff, and other "security officers". This will ensure that when the issue of court security arises in Canberra due to the nature of proceedings before a court, neither the operations of the court nor general policing operations in Canberra are impaired should there be a shortage of police officers. All "security officers" will be required to be registered as security guards with the ACT Security Protection and Investigation Industry Council and will be appointed in writing by the chief executive of my department or an appropriate public servant delegated to act on his behalf.

The Bill requires all security officers who are not police officers to be issued with identity cards and to wear the identity cards while they are on duty. It is an offence for a security officer not to wear an identity card.

In closing, I urge members of this Assembly to support this Bill to provide additional protection, when necessary, to those people in the community who use the courts.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

UNIT TITLES BILL 2000

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

Title read by Clerk.

MR SMYTH (Minister for Urban Services) (11.01): Mr Speaker, I move:

That this bill be agreed to in principle.

Mr Speaker, the Unit Titles Bill 2000 replaces the existing Unit Titles Act of 1970. After 30 years of operation, this major act dealing with corporate ownership of leases in the territory has been completely overhauled. The government and PALM have, over the past few years, been working with the community and with major stakeholder groups to develop what we believe will be a far more workable and simple system for unit titles administration.

Apart from a minor amendment to the act in 1993, the laws relating to unit title have not been changed significantly since 1975. Operational experience with the legislation over the past few decades has highlighted difficulties and procedural requirements that are out of step with contemporary land ownership and management practices.

This government is fully committed to community consultation, particularly in areas affecting such broad interest groups as unit ownership clearly does. A discussion paper on unit title was released in 1994 for public comment. In addition, following development of a comprehensive proposal for revision of the act, exposure drafts of the bills and regulations were released for community consultation earlier this year.

In February of this year members of the community were invited to attend two public information sessions to discuss the proposed amendments to unit titling in the ACT and to suggest improvements to the process. In particular, the ACT Law Society's property law subcommittee has been involved in discussing the proposed amendments and has made an enormous contribution to the revision of the proposals.

The bill resolves numerous problems and shortcomings in the current act and provides consistency with legislation in other states. In addition, the bill has been drafted in a more user-friendly form and clarifies the duties, functions and powers of owners, corporations, committees and unit owners.

Some of the innovations proposed in this bill include:

- dispute resolution mechanisms, such as "deadlock orders" where an owners corporation cannot reach a decision, and the appointment of conciliators to deal with disputes in unit plans involving only a small number of units;

- allowing the minor alteration of the internal boundaries of a units plan;

- simplification of the procedures for cancellation of a units plan by enabling the owners corporation to apply for cancellation by the Magistrates Court instead of the Supreme Court or, if unanimous agreement between unit holders is reached, by ministerial authority;

- requiring owners corporations to prepare a budget and set money aside in a sinking fund for future maintenance and repairs;

- providing for the staging of multi-storey unit developments whereas under the existing act this is only permitted for townhouses; and

- allowing owners corporations to enforce the articles of their corporation by remedying a breach without having to resort to external resources.

In the interest of accountability and equity, decisions to approve or refuse an application to unit title or a decision to approve or refuse an application to alter a units plan will now be appealable to the Administrative Appeals Tribunal.

These amendments are proposed in conjunction with the Unit Title (Consequential Provisions) Bill 2000, which will also be tabled today. The consequential provisions bill significantly amends the Land Titles (Unit Titles) Act of 1970 and also makes a range of minor amendments to other acts to give effect to the changes proposed in the main bill.

I am pleased to present this bill to the Assembly. It represents the culmination of a long and detailed review of the most significant facet of our land administration system. I am sure most members of the Assembly will agree that the new bill is an important and positive step towards a clearer and more manageable land system of ownership and administration.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

UNIT TITLES CONSEQUENTIAL AMENDMENTS BILL 2000

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

Title read by Clerk

MR SMYTH (Minister for Urban Services) (11.05): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Unit Titles Consequential Amendments Bill 2000 forms part of the dual package of bills which clarity the rights, obligations and liabilities of people in a unit's plan. The principal legislation governing unit titles is, of course, the Unit Titles Act 1970, and that act is completely overhauled by the proposed Unit Titles Bill 2000. This consequential amendments bill amends a range of provisions in the Land Titles Act 1970 and makes a range of minor amendments to other acts to give effect to the changes proposed in the Unit Titles Bill 2000.

The bill, along with the Unit Titles Bill, has been the subject of public consultation and more detailed consultation with the ACT Law Society.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

HEALTH LEGISLATION AMENDMENT BILL 2000

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

Title read by Clerk.

MR MOORE (Minister for Health, Housing and Community Care) (11.07): I move:

> That this bill be agreed to in principle.

This bill amends the Dentists Act 1931, with consequential changes to the Health Professional Boards (Procedures) Act 1981, to allow, at the discretion of the Dental Board of the ACT, a legal practitioner of at least five years standing to be appointed as a member in the event of an inquiry being conducted by the board.

Currently, the Dentists Act 1931 states that an appointed member must be a registered dentist and for a period of three years immediately proceeding the appointment entitled to practise as a dentist.

In December 1997 the Legislative Assembly passed similar amendments to the Medical Practitioners Act 1930, which enabled a legal practitioner to be a member of the Medical Board of the ACT. The Medical Board have advised that the appointment of a legal practitioner has proven to be a success in the operation of the board and that potential issues have been avoided due to the appropriate legal advice being received at the earliest possible stage.

The Dental Board conducts investigations and formal inquiries into the conduct of registered dentists and at present legal assistance for these investigations and inquiries is provided by the ACT Government Solicitor. This can lead to the perception of bias if the Government Solicitor also acts as prosecutor in any inquiry. Previous outcomes of Dental Board inquiries have also demonstrated a lack of knowledge in the technical aspects of conducting an inquiry.

The inclusion of a legal practitioner as a member or, at the discretion of the Dental Board as a chair when holding inquiries, will provide the board with the necessary legal assistance when conducting complex inquiries. It will also separate the prosecution and judicial functions of an inquiry. This will ensure that inquiries are conducted in accordance with natural justice principles as well as minimising the likelihood of Dental Board decisions being overturned by tribunals or courts of appeal. For these reasons, the Dental Board of the ACT has requested the preparation of the bill.

The Health Legislation Amendment Bill 2000 will allow the Dental Board of the ACT to obtain the necessary advice to resolve complex inquires and assist the board in fulfilling their responsibility to protect public safety.

Mr Speaker, as we indicated to members, we will seek to bring this bill on next week. When passed, the Dental Board will be able to take advantage of this legislation in respect of an inquiry which it is about to undertake.

Debate (on motion by **Mr Wood**) adjourned to the next sitting.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Reference

MR HARGREAVES (11.09): Mr Speaker, I ask for leave to amend my motion in the terms circulated.

Leave granted.

MR HARGREAVES: I move:

> That:
> (1) the Standing Committee on Planning and Urban Services inquire into and report on the National Competition Policy Review of ACT Taxi and Hire Car legislation:
> (2) this Assembly directs the Government not to implement any changes to the hire car industry prior to the presentation of the Committee's report to the Assembly.

In August 1999 a review of the ACT taxi and hire car industry commenced. This purported to meet the government's obligation to the competition principles agreement. The purpose of the review was to assess the extent to which the legislation restricts competition and to recommend more efficient ways of achieving the legislative objectives in order to improve the outcome for the ACT community. Public submissions were called for, and 47 written and oral submissions were received. A steering committee set up to oversee the review consisted of representatives from the Department of Urban Services and the Chief Minister's Department.

Mr Speaker, you could be forgiven for thinking that the review was a fair and open process. Wrong! Although public submissions were called for, no-one from the hire car industry was consulted on the final draft. No-one from the hire car industry knew of the drastic changes for the industry. No-one from the hire car industry was represented on the steering committee. If you think the hire car industry was shut out, you are right.

The front cover of the report shows that it was completed in March 2000, but oddly it was released to the public only in mid-November. Why did it take the government eight months to release the report to the public? This was intended to stifle debate whilst rushing on with changes. The hire car industry received the report three weeks ago and has been told that changes will be implemented in December. This is typical Brendan Smyth consultation that is synonymous with this government.

Mr Smyth: Oh, dear.

MR HARGREAVES: I hear "Oh, dear" coming across the chamber. Perhaps it is an echo of Mr Humphries' words yesterday. He just does not care.

The review was supposed to examine the taxi and hire car industries but instead cowardly ignores the taxis. Is the government really afraid of Canberra Cabs? Obviously, because they thrust an immediate assault on the small business operators in the hire care industry. They see the hire cars operators as easy prey and a quick way to meet their competition policy requirements, as they did the milk vendors.

The government intends to open the hire car industry right up by allowing school and formal vehicles to lease an annual licence for $10,000. Mr Smyth believes that this will provide greater flexibility in the industry. What the minister does not realise is that approximately 30 restricted hire car vehicles operate in the wedding and formal market. If the government's changes go ahead, those vehicles can enter the hire car market and destroy the 22 businesses that already provide this service. The minister would argue that this is competition and that these 22 hire cars have a monopoly of the market. Let me quote the definition of "monopoly" in the *Dictionary of Modern Economics* for Mr Smyth and for the entertainment of the Chief Minister, who cannot seem to wrap his mind around a serious issue:

> A firm is a monopoly if it is the only supplier of a homogenous product for which there are no substitutes and many buyers.

There are 22 businesses in the ACT hire car industry. Each supplies a similar product. If you do not like one hire car, you have the option of choosing another. The hire car industry is optional. Therefore, there are few buyers of the product, unlike the taxi industry, which has many. The hire car industry shares its financial take between 22 or fewer cars. Any additional cars will reduce this income. This sector is not a monopoly and should not suffer under the guise of competition policy.

Many of the operators in the industry bought hire car plates with their superannuation, outlaying approximately $120,000. They saw it as a good investment which would give them a comfortable return, but this has hardly been the case. At this stage I would like to acknowledge the presence in the gallery of representatives of that industry. I thank them very much for coming along this morning.

Over recent times operating costs have skyrocketed. Fuel costs have doubled this year, with fuel now costing operators $5,000 a month; vehicle registration costs an extra $300 for; and business has declined due, amongst other things, to the Prime Minister not residing at the Lodge, with the resultant loss of big visits by big business and lobbyists.

One hire car operator said that their figures for the month of September were down compared with previous years. September is generally quiet, but $8,000 this year compared to $35,000 for 1999 is a substantial decline. At the briefing I had from the department, I was told that they expected to lease four plates. These four plates would cost existing operators $300,000 a year. This, on top of increased operating costs, would surely have an immediate and disastrous effect on existing operators.

This attack on the hire car industry is deregulation by stealth. We saw it with the milk industry. Vendors content delivering in their particular zone were turned upside down when the government announced the review. Those vendors trying to sell their milk runs found it impossible, and the value of their runs dropped overnight when the review was announced. All you have to do is substitute the word "milk" with "hire car". The situations are identical.

I received a letter from the owner of hire car plate H4. He owned his plate for six years but decided in October 1999 to sell it. Prospective buyers told him that they would not purchase his plate until after the review had been completed. On 23 November 2000, H4 was returned to storage at the motor registry because the owner had been unsuccessful in

selling it. The government's procrastination in publishing this report has led to owners being unable to sell their plates.

Mr Humphries: So we are going too slow?

MR HARGREAVES: I hear the interjection from the Chief Minister: "So now the government is too slow?" The government issued the report in March 2000—to whom nobody knows, because it was not released to the public until mid-November. Mid-November was when the people affected by it saw it or became aware of it.

Mr Humphries: We will be going too fast by next week, don't worry.

MR HARGREAVES: If they are congratulating themselves on that, Mr Speaker, let the record show it. I do not think there is anything to congratulate anybody about. The government's procrastination in publishing this report has led to owners being unable to sell their plates, plates being devalued and superannuation being lost. This inept government could not make a decision or release the report on time. If it had finished the report in March 2000, you have to ask yourself why it did not issue the report to the hire car industry in March 2000. Nobody knows.

Sixteen months later the report has been released, and the government insists on changes within the next month. Mr Smyth is giving the hire car industry approximately one month to read about, digest and adjust to the changes he wants put in place. It is all right for Mr Smyth, who has had several months to read this report, but to give the industry one month to adapt to the changes is unacceptable. If anything, it makes them suspicious. Why has the hire car industry not been consulted on these changes? These changes the government is enforcing will directly affect the earning capacity of owners and lessees, giving them little time to react and prepare.

The report recommends compensation, but the government dismisses compensation. The report says:

> If the transferable perpetual licences are replaced with say, annual licences that are readily available, the original licence value will in fact be worth nil.

Despite this comment in the report, the minister still refuses to compensate the hire car industry. Obviously the minister has taken out of the report the bits that cost him nothing but picks up those that make him money. How convenient is that? The report goes on to say:

> A policy change may be deemed inequitable if it imposes substantial uncompensated losses on relatively few individuals, even though the change may bring about net benefits to the wider community. A failure to compensate for major policy changes can undermine investor confidence. It may also lead to intensified efforts by those with vested interests to seek to have reforms stopped.

Hence why we are here today. This government is too stubborn to admit that more time and consultation are needed. This government does not believe that these changes will be to the detriment of existing hire car operators. This government does not believe that these changes will be to the detriment of existing hire car operators. The review

disagrees. When we have a government that prefers to bury its head in the sand, you have to resort to taking other action.

I believe the best vehicle through which the hire care industry can have their views heard is the Standing Committee on Planning and Urban Services. The members of the hire car industry can put their case to the committee and the committee can report to the Assembly. The government is not listening, but the majority of the Assembly must. I urge the government to listen to the community. They want time and they want to be consulted.

I strongly urge the government to delay taking any action that involves the hire car industry. After all, we are talking about people's livelihoods. It is not something that should be done in the space of four weeks. I ask members to support the motion.

I ask for leave to table the following paper:

> National Competition Policy Review of ACT Taxi and Hire Car legislation—Final Report, March 2000.

Leave granted.

MR HARGREAVES: I table the paper.

MR SMYTH (Minister for Urban Services) (11.21): The government has no difficulty with the motion. The Assembly can always refer something to a standing committee, and it would be appropriate for this matter to go to the Planning and Urban Services Committee. But it is important to clarify some of what Mr Hargreaves has said. He quoted selectively from a very complex and detailed report, as the Labor Party does more and more often these days.

The public review of the taxi and hire car industry in the ACT was commissioned last year to meet the government's commitment to the national competition principles agreement which was signed by all the states and territories in 1995. Under that agreement the government is committed to review all legislation that potentially restricts competition. Legislation should not restrict competition unless the benefits to the community of the restriction outweigh the costs and the objectives of the legislation can only be achieved by restricting competition.

In response to the review's findings, the government has announced many decisions in relation to the taxi industry as well as the hire car industry. Mr Hargreaves' motion simply dismisses the changes we have made to the taxi industry.

In the taxi industry competition will be addressed by new networks and improved cross-border arrangements with Queanbeyan and New South Wales taxi systems. As well as that, an additional 10 WATS plates will be released. Improving access for those in wheelchairs is very important. The government said that it would meet a 10 per cent requirement. The additional plates will take it past 10 per cent. I am surprised at Mr Hargreaves dismissing the reforms to the taxi industry as being non-existent.

In response to the findings, the government has announced that no additional perpetual hire car licences will be issued at present. However, a further review of taxi and hire car licensing arrangements, community needs and industry viability will be conducted before June 2002. Hire car operators wishing to undertake work in addition to the wedding and school formal market will be able to purchase an annual licence. The cost of the licence is yet to be determined but will be set taking into account the annual lease fees currently paid by existing operators. The restricted hire car vehicle licences will continue to be available for a minimal fee to operators who service the wedding and school formal market. No more variations will be granted to restricted hire vehicles to allow them to work outside this market.

The decisions will ensure that those undertaking hire car services will be able to compete on an equal regulatory cost basis. At the same time, retaining the restricted hire vehicle licence will ensure customers in the wedding and school formal market will continue to receive affordable services.

The investment of current hire car licence holders will be supported by the annual licence fee. The annual licence fee will be in line with that paid by those leasing hire car licences. The annual fee will provide neither an incentive nor a disincentive to existing operators to abandon their current licences.

The loosening of the restriction on the number of hire car licences is overdue. The last hire car licence was issued in 1980, some 20 years ago. Since that time the ACT population has risen from 226,000 to over 311,000. That is an increase of 37 per cent. Also over the last two years the amount of work available from the Commonwealth government has increased with the downsizing of the Comcar fleet.

A detailed government response to the recommendations for the review will be made available as soon as possible. We have no dilemma with what Mr Hargreaves is proposing here, although I think it should be done quickly, so I move the following amendment:

> Paragraph (1), add "by 1 February 2001".

MR HIRD (11.26): Speaking as chairman of the Standing Committee on Planning and Urban Services, I welcome Mr Hargreaves' reference to my committee. I can assure members of the house that my committee will undertake a public inquiry which will be extensively advertised through the media. We will seek submissions and invite ladies and gentlemen of the industry to put forward their views at public hearings, as has been our practice with other hearings.

We would ask the minister that his officers not move to alter the current arrangement until my committee presents a report to this place. While I understand the minister's concern and will be supporting his amendment to bring down findings by 1 February, I need to talk to my colleagues on the committee. Bear in mind that we have a heavy work schedule and that at the first opportunity in the February sittings next year we wish to present our report on Gungahlin Drive, a matter which has been around for some time.

MS TUCKER (11.28): The Greens will be supporting this reference. I was interested to hear what Mr Hird had to say as chair of the committee. I know that you have a heavy workload at the moment, but I can certainly see the need for a further inquiry into how the government is managing what is basically deregulation of the hire car industry, although they call it something different. We have met with members of the industry and believe they have legitimate concerns. Hopefully those concerns can be addressed through an inquiry.

Mr Hird accepted the amendment from Mr Smyth. I would not have done that as chair of a committee. I would have consulted the committee first. It seems a very short timeframe. Some members might want to have a bit of a break over Christmas. I would have thought that it would have been better to determine that later. I find it a bit disrespectful of Mr Smyth to impose a timeframe without consulting members of the committee. It could be a problem, so I do not know that I can support the amendment. People need a chance to look at what is a reasonable timeframe.

MR CORBELL (11.29): Mr Hird said that he believed the timeframe proposed by Mr Smyth was appropriate. I can only reiterate the words of Ms Tucker. I do not think that is a judgment for Mr Hird to make on his own. There are two other members of the committee. Frankly, the timeframe the minister suggests is completely unrealistic.

If the minister wants to impose those sorts of timeframes, he has to decide what the priorities for the committee are, because the committee has a whole range of obligations, including other referrals from this place as well as the statutory requirement under the land act to examine variations to the Territory Plan, of which at least half a dozen are presently before the committee. If the minister wants to ask the committee to do this work within the timeframe he suggests, he needs to demonstrate, at the very least, some preparedness to provide resources to the committee to do the work.

Regardless of that point, to suggest that the work can be done by 1 February is quite unrealistic. The committee is engaged in a number of very busy inquiries at the moment, including, as Mr Hird rightly pointed, a major one into Gungahlin Drive. It should be a matter for the committee to judge exactly how much work is required on this inquiry. The minister might like to suggest that, instead, the committee, after its first hearing, report back to the Assembly when it sits for the first time next year what the appropriate timeframe should be and the Assembly can make a decision on that.

The current timeframe is unacceptable. Clearly, the issue needs to be properly considered. This is a case of the government proposing an amendment so it can say it agrees with the referral, but knowing that no serious work can be done in the timeframe proposed.

MR HARGREAVES (11.32): Mr Speaker, I thought in my rampant naivety that the minister was agreeing to the referral in good faith. I am staggered to see that the minister wants to have this review by the urban services committee done in December and January, over Christmas. We have a significant workload in the committee as it is. We are witnessing a three-card trick. It says something about the good faith of the government on this question.

The report was out for five months before the industry got a chance to look at it. Minister, you can sit there and smirk as much as you like with your little paperboy smirk. It does not wash. This minister is trying to give the hire car industry a tiny time in which to make its representations. The industry has had the report for three weeks. Some of the issues are glaringly obvious, but there are other bits and pieces. If this sort of sneakiness is any indication, then there is going to be something else in that report.

The industry has a right to fair and equal treatment. It would be the fair thing to give the industry five months to think about it and to give the committee five months to think about it and report to the Assembly on it. What the minister proposes is just not the fair thing. If the minister wants to spring something on us across the chamber because he wants to play silly little politics, so be it, but do not spring this sort of stuff on the hire car industry.

You are the steward of these people's livelihoods, and you are rushing the inquiry through. If you do not take notice of what people in the industry say, the death of their industry or the death of particular companies will be on your head. I am trying to give you a lifeline here by saying, "Let us do the right thing." Then you can go for it. This is just not on.

MR RUGENDYKE (11.35): I do not quite know what the motive for pinning us down to 1 February 2001 might be, but it is totally outrageous. There is something shonky going on here. I do not quite know why that is either. There are glaring deficiencies in the Freehills report. Various sectors of the industry have been totally left out of consideration. Decisions made by the department have got most of the players in the industry offside. There are glaring problems in the industry that I can see, and I am yet to fathom what the problems are, let alone how to deal with them in a fair and equitable manner. To try to rush this through in this fashion is totally outrageous.

Amendment negatived.

MR HARGREAVES (11.36), in reply: In the minister's short speech he referred to the imperative of the national competition policy. The national competition policy, as he quite rightly said, talks about legislation which prevents fair competition in the marketplace. You could argue that the taxi industry falls under that particular definition—after all, it is one cooperative—and therefore we ought to examine the legislation applying to the taxi industry to see whether there is any public benefit in leaving it as it is. I do not have any objection to that. I had not made significant comment on that, because I understood that it rightly should have been examined under the NCP.

But I have an argument about the hire car industry. We are talking about 22 separate businesses here. There is not a monopoly. They do not have one central place that you ring up to get yourself a hire car. You have to ring all 22 of them if you want to get the most competitive rates. This industry is not a monopoly. An examination of the legislation under the guise of having a look at a monopoly just does not hold a cupful of cold water. It ought not to have taken place. If the government has some imperative about wanting to look at the industry for other reasons, let us hear those reasons and debate, them. To hide behind the NCP does not work.

The minister's press release says:

> The key outcomes affecting hire car industry are as follows:
>
> - no additional perpetual hire car licences will be issued at present. However, a further review of licensing arrangements, community needs and industry viability will be conducted before June 2002.

It will be too late by then. It says:

> - To provide greater flexibility for the industry, operators wishing to undertake work in addition to the wedding and school formal market…

That is what the minister quoted in his speech. I know for a fact that the industry does not support that view. You say:

> The cost of the licence has yet to be determined, but will be set by taking into account lease fees currently paid by existing operators.

Pure rubbish! When the minister talked about no extra licences, he used the term "no extra petrol licences". Does that exclude gas licences? Is this just playing with words? Ordinarily I would have let that one slip through to the keeper but, given this minister's record in the last couple of days, I look at every single word he says to try to find out whether in my mind he can be trusted.

One of the things that came out of this review which the government curiously has not particularly addressed in the public arena is the enforcement of the regimes which already exist. We know that there are RHVs out there doing work which is not permitted under the legislation. We know that there are next to no enforcement regimes. They are relying on people dobbing folks in, and by the time they get there nothing happens. If you want to clean up the hire car industry, existing regulations must be enforced and more inspectors must be put on. Bad luck if it is going to cost you a couple of quid. Put them on and empower them to do something immediate about it—on-the-spot fines or whatever else you like. At the moment the enforcement of the different types of licensing is an absolute joke. We are saying that we should free it up for the Queanbeyan people. Actually it is already happening. Let us formalise it. Why is it happening? Because we cannot enforce our own legislation.

The minister said that current perpetual licence investments will be supported by extra licences. I would say that it works the other way around. If you have bought a licence for $120,000 and you lease it out and the person who is leasing it from you can get it for less than that he is going to do it. The bottom just drops clean out of the value of those vehicles. The fact the you are introducing extra players into the marketplace means that $300,000 is going to be left in the bucket. That is going to shrink the value of the business. Any suggestion that it is going to support it is nonsense.

I remind the government that the last paragraph in the motion has been amended to read:

> this Assembly directs the Government not to implement any changes to the hire car industry prior to the presentation of the Committee's report to the Assembly

In the weekend's paper expressions of interest in the second taxi network were called for. Whilst I have no particular difficulty with that, it is something which has emanated from this report. If the Assembly passes this motion today, it is telling the government not to do anything about the recommendations in that report until the Assembly committee has seen it.

I thank the hire car industry for the support and information they have given to me and my Assembly colleagues in trying to bring us up to speed on this issue. I hope the government goes into the consultation process in good faith.

Question resolved in the affirmative.

HEALTH AND COMMUNITY CARE—STANDING COMMITTEE
Inquiry into Aboriginal and Torres Strait Islander Health

MR WOOD (11.44): I move:

> (1) if the Assembly is not sitting when the Standing Committee on Health and Community Care has completed its inquiry into Aboriginal and Torres Strait Islander health, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
> (2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

I point out that this and the subsequent motions I will move relate to reporting times and the ability to report out of session.

Question resolved in the affirmative.

Inquiry into Cannabis Use

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

> (1) if the Assembly is not sitting when the Standing Committee on Health and Community Care has completed its inquiry into Cannabis use, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
> (2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Inquiry into Elder Abuse

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

> That the resolution of the Assembly of 11 May 2000, referring the prevalence of and options to prevent elder abuse to the Standing Committee on Health and Community Care for inquiry and report, be amended by omitting "last sitting day in 2000" and substituting "last sitting day in August 2001".

JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE
Inquiry into Defamation Bill 1999

MR HARGREAVES (11.46): Mr Speaker, I seek leave to move a motion standing in Mr Osborne's name on the notice paper as he is not able to be here at this moment.

Leave granted.

MR HARGREAVES: Thank you very much, Mr Speaker. I move:

> That the resolution of the Assembly of 31 August 2000, referring the Defamation Bill 1999 to the Standing Committee on Justice and Community Safety for inquiry and report, be amended by:
>
> (1) omitting "last sitting day in December 2000" and substituting "last sitting day in February 2001"; and
>
> (2) adding the following new paragraph:
>
> "On the Committee presenting its report to the Assembly, resumption of debate on the question 'That this Bill be agreed to in principle' for the bill be set down as an order of the day for the next sitting. The foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.".

Question resolved in the affirmative.

INTERACTIVE GAMBLING REGULATIONS AMENDMENT (SUBORDINATE LAW 2000 NO 27)
Motion for Disallowance

MS TUCKER (11.47): I move:

> That Subordinate Law 2000 No 27, made under the *Interactive Gambling Act 1998* relating to interactive gambling tax rates be disallowed, pursuant to section 6 of the *Subordinate Laws Act 1989*.

The regulation that we have moved be disallowed substantially cuts the tax charged on interactive gambling licensees' profits from interactive gambling. The government's explanation for the cut is that it is part of the process of negotiating with interested companies. In other words, it is a bargaining process. In particular, the bargaining has been fuelled by the cut price tax rates on offer in the Northern Territory at eight per cent, Hobart at four per cent and Norfolk Island at four per cent. We have moved this disallowance to give the Assembly a chance to put a brake on our involvement as a territory in the developing tax-bidding law which has been going on between governments within Australia for some time now in a number of areas, and I will say more later about the consequences of this bidding law.

With this regulation the government has moved us from a 50 per cent tax on monthly profits and revenue sharing with other jurisdictions to a system of five per cent, 15 per cent and 20 per cent, depending on how much the company makes. The five per cent tax rate applies to profits above $20 million and the 20 per cent tax rate applies to profits below $10 million. This reverse sliding scale is not the element of most concern to us, but I would like to note it.

At a briefing we were given the government explained that they are seeking to attract the large players, that the larger companies should be attracted because they will somehow be better equipped to meet the regulations to ensure consumer protection and so on. This is an interesting statement. On one hand, we are told that there is now an accreditation system in place through the gambling commission with instructions to applicants, on-going monitoring et cetera, and that this system will ensure that only best practice providers will be allowed into the industry. Yet, on the other hand, it appears that the government is not all that confident about that quality assurance if they believe that a higher tax rate will discourage smaller providers or providers with a lower profit margin. I am concerned about that because one would have thought that with a good accreditation process in place such concessions would not be necessary.

One wonders what guarantee there is that the five per cent tax group—those with the largest profit—will provide better consumer protection mechanisms if this lower tax rate is applied. There is an assumption that providers who make the highest profits and pay the very low tax rate will be able to provide better consumer protection mechanisms. That seems to be a very sloppy kind of approach.

It is interesting to look at the tax rates across country for various forms of gambling. Governments receive 82 per cent for lottos and lotteries, 34 per cent for wagering, 30 per cent for gaming machines and 21 per cent for gambling at casinos. These figures include taxes, licence fees and other charges, so they are not directly comparable with the figures for the territory.

In the ACT the government sets different tax rates as well. The casino has a 20 per cent rate on profits from general gambling with a 10 per cent rate on commission-based profits relating to high rollers. In the case of poker machines, there is no tax up to $8,000, a 23.5 per cent tax for $8,000 to $24,000, 24.5 per cent for $25,000 to $50,000 and 25 per cent for amounts greater than $50,000. So the scale is the reverse when you are looking at poker machines. It just makes you wonder why there is not a consistent rationale in place for determining not only how a sliding scale works but also how decisions about taxation are made by governments.

The drop in the taxation rate in the regulation that is now before us is obviously a result of the government's need to compete with the other states and territories. They have made that quite clear. This arrangement does not even seem to make sense economically in view of the Productivity Commission analysis of the opportunity costs of gambling to the local economy. If we have a good look at the economics of introducing these further forms of gambling and the impact they have on the general economy of the community we find that there is nothing rational about supporting this sort of activity.

Of course, one of the arguments that are put is: "Don't worry because the opportunity costs that are lost through expenditure on gambling will not actually be occurring here because most of the players will not be living in the ACT." So apparently it is okay for a government to shift social harm; if the social harm is shifted then the government does not have an ethical responsibility to take responsibility for that. Because somehow it is not going to impact so much on their own citizens, they are not interested in the broader ethical question of the community bearing the cost of that social burden.

As I mentioned earlier, I am concerned that if we do not disallow this regulation we will lose the ability to utilise the tax sharing capacity that previously existed. This is obviously of major interest to anyone who is looking at the question of taxation on gambling. The academic papers that are produced on this subject always refer to the importance of the tax sharing question.

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77.

Suspension of Standing and Temporary Orders

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

> That so much of standing and temporary orders be suspended as would prevent consideration of Assembly business having precedence of Executive business notices and orders of the day in the ordinary routine of business, unless otherwise ordered by the Assembly, until the Assembly has completed its consideration this day of Assembly business, Notice No 6.

MS TUCKER: The other thing that has come up in the research and literature that is available on the issue of the tax revenue base for governments resulting from taxes on gambling is that governments are tending to encourage new forms of gambling as their tax revenue base from old forms of gambling dries up or is reduced. Julie Smith's study shows that since the 1980s not only has there been an increase in the forms of gambling but also expenditure on gambling per capita increased dramatically after Australian state and territory governments became more dependent on gambling revenue.

So we see this continual momentum of governments being encouraged to support new forms of gambling because they feel that their revenue base from gambling is declining from the current forms. But it is not as if the new forms of gambling pick up the slack from those forms of gambling which have had some diminishing returns. New people are brought into the newer forms of gambling. The National Office for the Information Economy made the point that interactive aniline gambling will bring in new gamblers. Some people who do not gamble now will engage in this new form of gambling. So there will be an increase in the percentage of the community throwing their money away on gambling. It is also clear that many people will not be able to afford to throw their money away .

It is quite clear that problem gambling is a major concern. It is also quite clear that the more people spend on gambling the less they are able to spend on more constructive activities which are better for the general economy. Once again, this is about the ation, as it is called in United States literature, of local economies. The only people winning from this tax bidding war is, of course, the industry. The industry is very delighted with this current situation.

There is a dilemma of course because, on one hand, you do not want to see governments becoming more reliant on revenue from gambling. But, on the other hand, you also do not want to see ridiculous tax breaks being given to the industry when the costs are going to be so great on our community.

When we had the briefing and were looking at the five per cent in the ACT, we were told that the four per cent that is currently being offered by Norfolk Island and Tasmania would not be sustainable here because it would not cover the costs of the Gambling and Racing Commission. That is quite a startling statement. We are introducing this new form of gambling with millions and millions of dollars to be made by the private providers and basically all we are hoping to do is cover the costs of administering a gambling commission. What about the costs to the broader community? How should we be setting tax rates for this kind of activity? Surely it should not be just on the basis of this mad bidding war.

As members are aware, there is now more likelihood of a national moratorium. One of the reasons that the Greens have supported the concept of a moratorium is that we believe there needs to be a national approach to looking at how we should be setting tax rates and how we should be addressing the question of tax sharing so that the shifting of social harm is accommodated. And that is only within Australia. Obviously at this point we cannot accommodate the question of shifting social harm to other countries.

I know that one of our local providers has claimed that most of the punters are in the United States. We know that there are some questions being raised in the United States about that. At this point we are not going to be able to deal with it but at least nationally there is now a growing interest in looking at how we can, in a thoughtful and responsible manner, make decisions on taxation rates and taxation sharing related to gambling activity.

I hope that this regulation is disallowed so that the ACT is able to go to the national discussions, which hopefully will take place, with a base rate of not five per cent but 50 per cent—the rate which applies now and the rate which applied at the time we debated the interactive gambling legislation that contained some tax sharing capacity—and say that the majority of the members of this Assembly, representing the community of the ACT, want to see this bidding war stop and a responsible approach taken by all governments of Australia to address taxation rates in Australia on gambling activity and interactive gambling in particular.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (12.00): Mr Speaker, the government does not support Ms Tucker's disallowance motion. I think we need to understand that the regulation that Ms Tucker is seeking to disallow does two things, not merely the one thing that Ms Tucker has spoken about.

First of all, it is true that it sets a different marginal tax rate. But it also provides for a mechanism to allow for interactive gambling operators to claim a credit for goods and services tax, GST, paid against their ACT tax liability. Under the intergovernmental agreement on the reform of Commonwealth-state financial relations, or the IGA, the ACT has undertaken to take account of the GST impact on interactive gambling operations.

Mr Quinlan: How much would that be?

MR HUMPHRIES: This regulation provides for a credit up to the extent of the gambling tax liability for the GST already paid on their margins against their ACT tax liability. So a disallowance of this regulation would remove that mechanism. It would be grossly unfair to the operators themselves not to have some relief from one form of the tax or another, and it would also potentially place the ACT in contravention of the intergovernmental agreement on that new tax system.

The government acknowledges, of course, that in a worldwide competitive market the previous 50 per cent tax rate was not sustainable and was a significant impediment to potential applications. Many existing Internet gambling operators licensed overseas pay an annual licence fee of around $100,000 but do not pay any tax because there is little, if any, regulation of their operations in overseas countries.

However, regulation of Internet gaming appears to be gaining popularity. Antigua, the base of the majority of the world's unregulated gambling sites, has recently announced that it intends to introduce a regulatory regime and a tax rate of two per cent on gross profits. South Africa also has announced that it will impose a tax rate of two per cent on gross profits.

I would agree that the appropriate level of taxation at this stage of the development of interactive gambling is, to a degree, a matter of some uncertainty and will need to be monitored as the industry develops further. There is not sufficient historical data at this point to be fully confident about the turnover of potential operators and, hence, the most appropriate tax rates. Nevertheless, in considering tax rates offered elsewhere in Australia and worldwide, it is considered that a taxation rate greater than 20 per cent, inclusive of GST, would render the arrangements non-viable. A taxation rate of 20 per cent or less would at least give ACT licensed operators some chance to compete with other operators and maintain a viable business.

We have set up these arrangements, Mr Speaker. We are feeling our way with a new developing industry. How far the industry develops, I suppose, will depend to some extent on legislation being put through the federal parliament at the moment. But we have committed ourselves to a regime of regulating interactive gambling in the territory; and we have committed ourselves to be able to provide for a reasonable rate of taxation to ensure that that industry has a chance to operate as intended with the legislation we passed a couple of years ago. So I think it would be quite foolish to instate taxation levels which make those businesses now based in the ACT unviable and cause them to move out of the territory.

The tax rate proposed in the regulation is as follows: for each month from the beginning of a financial year until the total accumulated interactive gambling profit for the year exceeds $10 million, and includes the month in which the $10 million actually occurs, the rate is 20 per cent. If subsequently, and for each subsequent month of the financial year, more profit is incurred, then until the total interactive gambling profit for the year exceeds $20 million then a tax rate of 10 per cent applies. And then for each other month of the year a tax rate of five per cent applies.

Given the tax rates enjoyed, for example, in the Northern Territory at eight per cent and in Norfolk Island at four per cent, this proposal clearly gives the ACT a reasonable basis on which to proceed. It is actually not as low as those other jurisdictions, at least for the

rate applying to up to $20 million in profit. You can have a higher rate than places like the Northern Territory and Norfolk Island. I thought Ms Tucker would have supported the concept of having a higher rate of taxation and therefore a greater opportunity for the community to get some benefit from those sorts of activities happening in the ACT. At the high profit level there is a lower rate than at least the Northern Territory. But a business has to have a very high level of profit, over $20 million in a financial year, to be able to obtain the benefit of that lower rate.

Members should also be aware that the tax rates are determined on a monthly basis, and only for a single financial year at a time. This means that an interactive gambling operator would only benefit from the lower tax rates of 10 and five per cent upon reaching the appropriate thresholds in gross margins during the financial year. At the start of the next financial year all operators go back to the 20 per cent, so it is not cumulative. This type of sliding scale regime will attract those more reputable operators best able to demonstrate their commitment to the ACT and player protection overall. Large international companies have a larger market base overseas and better financial and technical capacity to meet the stringent regulatory regime in the ACT. Larger reputable companies also generally are committed to a longer term operation in the ACT.

Mr Speaker, I do not consider that the proposed tax scale is regressive and that it adversely affects small companies. With these sliding tax scales all companies will pay the same tax rates at the same level of profits. That is, all companies, big or small, pay 20 per cent of their first $10 million gross profit, 10 per cent of their next $10 million and then five per cent on all those profits exceeding $20 million in a financial year.

Existing regulation 12 of the Interactive Gambling Regulations requires that to determine the amount of tax a provider had to pay, he or she had to first calculate the ACT's component; then, if the player was from another jurisdiction, that jurisdiction's tax rate component, or if the player was from a non-participating jurisdiction, that jurisdiction's tax rate component. Then it had to be multiplied by either, if the game was a game to which a gaming act applied in the player's jurisdiction, the tax rate applicable to that game in that player's jurisdiction or, if there was no gaming act applicable to that game in that player's jurisdiction, 50 per cent. Clear as mud, Mr Speaker!

After all that, the ACT then had to repatriate the other jurisdiction's tax component back to the jurisdiction, providing that jurisdiction was a participating jurisdiction that had an agreement with the ACT and had applied for and received approval to operate that particular game that the player played in the ACT. In the simplest of cases of an ACT resident gambling online in the ACT, there is one tax rate on the gross profit from the game played if he or she played online pokies, then another if he or she played an online game of roulette, and then another if he or she played a game that was not a casino-type game or a pokie.

It is clear that those arrangements were unsatisfactory and that they have to be replaced with something that is more appropriate. That is what the regulation which Ms Tucker is now seeking to disallow actually achieves and I think it is inappropriate for it to be put aside in the way that she has suggested.

Although the ACT agreed to participate in a national licensing and regulatory regime for interactive gambling, and we now have a regulatory regime that is second to none, it does not mean that we have to stick to the parts of that regime which are not workable, and clearly the taxation arrangements were not workable. The new tax regime rewards operators who are prepared to settle and grow in the ACT and respect the stringent limits which we place on operating such a business in the ACT. I would suggest that the house not support the motion to disallow that Ms Tucker has moved.

MR QUINLAN (12.10): Mr Speaker, I have to say that I wish I knew more about interactive gambling and could keep up with developments out there in the ether. Towards that end I have instructed my office to arrange a briefing to bring us up-to-date on this subject because I guess it will continue to be a vexed issue for some time.

I think it is important that we as an Assembly differentiate between the elements of revenue raising on the one hand and the management of problem gambling on the other. Just as much as prohibition proved a failure in addressing the problems of alcohol, I do not think that prohibition or inhibition applied to gambling is necessarily the most effective way to address the problems that arise.

I thank Mr Humphries for his expose on how the previous rates were applied. I have to say that at midnight in this place last night I spent some time going through the formulae and working out exactly how they did apply. I understand that the regulation, with the first $10 million being taxed at 20 per cent, the next $10 million at 10 per cent and then the remainder at five per cent, has been set up to keep out small operators. I am a bit concerned whether we have pitched that at the right level. Again, I would like, in the fullness of time, to understand what effect that will have in terms of entry into the Internet gambling market. Will it virtually freeze out new players at the same time as it to some extent freezes out the potential fly-by-night operator?

I have received mixed messages in relation to the agreement on the repatriation of tax on gambling originating in another jurisdiction. I understand from what the Chief Minister has just said that a repatriation agreement applies in cases involving participating jurisdictions. I was given some different information when I was following that up this morning and I am pleased it has been cleared up. However, I would like to know whether this position still obtains because to some extent the structures that were set up in the ACT do not encourage operators to shift geographic location. Is it the case that the taxation regime applies to the origin of the bet and not necessarily the location of the operator? Is that right?

Mr Humphries: I am not sure about that.

MR QUINLAN: Maybe you should come to the briefing that I am arranging. I understand the logic behind the provision in relation to the GST but I am not sure again what real impact that has and how much GST applies to gambling—that has not been made clear. I do know from my homework that there are lesser rates applying in Australia and there are in fact even lesser rates applying to overseas locations to which punters would have access anyway.

When we read the Grants Commission reports on the revenue effort of the ACT we see that we are either penalised or not penalised, depending upon our fundraising in relation to gambling. But at the end of the day what Labor is saying is that we have to find a way to manage this problem. We know it is there, we know that every person in the ACT has access to line gambling and it is not limited by the ACT border. So it behoves us to separate the commonsense business approach from the very real problems that are associated with chronic problem gambling. We need to come to terms with the fact that prohibition or inhibition are not necessarily the solution. The bottom line is that, having learned some lessons during the course of 2000, we are prepared to leave the government and the executive, which have the resources, to set some of the parameters in respect of budget and revenue raising.

Mr Speaker, the opposition cannot at this stage support this disallowance motion. However, we believe that the general question of gambling, the impact of gambling and the influence of Internet gambling is one of concern for all of us in this place and I expect that the general issue will arise again in a number of manifestations.

MR OSBORNE (12.17): Mr Speaker, I have heard some pathetic arguments this morning in relation to the justification for not supporting Ms Tucker's disallowance motion. I have to say the argument used by many people today has been the issue of attracting business to the territory. I would argue that, if that is the rationale behind what we do in this place, we should consider looking at opening sweatshops because by doing that we could make a hell of a lot of money and attract some businesses. I would argue that the damage that sweatshops create in developing countries is no worse than the damage that gambling is causing to people here in Australia.

I do not accept that we should lower the tax rate for the big companies to five per cent. Like other members, I have been in negotiation with the government on the issue of profits made by clubs from the poker machine levy being put back into the community. The government wants the clubs to put back into the community an amount that is far greater than it wants to charge some of the big Internet gambling companies. But there are no safeguards in respect of these companies. At least clubs are accountable to their members.

I am scared about the new markets that will be accessed by Internet gambling. Over the years that I have been lucky enough to sit on the sideline I know that Ms Tucker has put forward legislation to make clubs more accountable in relation to poker machines. We have dealt with issues such as access to teller machines. We have required clubs to display labels. I think what we have done is working and we are making clubs think about it. But the reality is that there are no safeguards in respect of aniline gambling companies. We have no real idea what they are doing for the people who are in need.

I am disappointed with the way this whole debate has gone. I know that some members on the crossbenches are concerned about the ACT not attracting its slice of the pie. Even though we are a small Assembly we need to make a stand on this. I do not particularly care if businesses do go offshore.

We as a nation are currently embroiled in a debate on the issue of gambling and the real social damages that it causes to families. I have experienced within my family problems with gambling addiction and I have seen the amount of money that is spent and the pain

that it causes. I recall during my football career seeing kids waiting outside different leagues clubs for their mums and dads who were addicted to gambling. What we are now doing is saying that we want to make it easier for people to gamble aniline at home and we are going to reduce the amount of tax paid by companies. I think this is disgraceful.

I am only very new to the debate on poker machines but I have to say that I will not be supporting anything that places them into new markets. I intend working with Ms Tucker not only today but in the future to try to ensure that we make a stand and do something important. Gambling is a rapidly increasing disease. It has a huge impact on families and their quality of life. The people who suffer the most are not the people who are addicted. The people who suffer are their families—their wives, their husbands and their kids. Although I am disappointed that we do not have the support to make a stand today, I will be supporting Ms Tucker's disallowance motion, for the reasons I have outlined.

MS TUCKER (12.21), in reply: I will respond to Mr Humphries' comment about the effect that disallowing the regulation would have on the GST. Obviously we are aware that the regulation deals with the GST but we found it too difficult to separate this component. If my motion is supported then obviously we will ask the government to reinsert this provision. Mr Humphries' regulation seeks to change certain things. If my motion is agreed to and the regulation is disallowed, Mr Humphries could easily reinsert the GST component. So that is not a major problem.

I would like to comment on the issues that have been raised in the debate today. I heard Mr Humphries again say that he was of the view that the providers with the greatest profits would be better able to deliver consumer protection. I repeat that I do not think that says he has a lot of confidence in a process that is supposed to be in place to ensure that licensed providers have absolutely high consumer protection mechanisms in place. Hundreds of pages of instructions to applicants which supposedly deal with those issues are on the commission's webpage.

We have been reassured on many occasions by this government that we are second to none in ensuring that in fact regulation is in place and that quality-assurance mechanisms, which Mr Humphries has said are second to none, will be working well. I think Mr Humphries is implying that this motion may present some problem for different regimes of gambling. The different regimes for different forms of gambling will remain. According to the Interactive Gambling Act, the interactive gambling tax by definition applies only to gambling not covered by other legislation.

Also, I think Mr Humphries was suggesting that we needed to look at the operating expenses of the companies—that they were somehow included in the profit. The profit does not include the operating expenses. The profit is basically player losses.

I think they are the main points that need to be made—I covered the rest in my initial presentation. I urge members to support my motion. It is pretty clear that I am not going to get the support that I need. I look forward to seeing a national discussion on interactive gambling, even though the ACT has not shown a willingness to address the very serious issues that I have raised today.

Question put:

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

Ayes, 3	Noes, 14
Mr Osborne	Mr Berry
Mr Rugendyke	Ms Carnell
Ms Tucker	Mr Corbell
	Mr Cornwell
	Mr Hargreaves
	Mr Hird
	Mr Humphries
	Mr Kaine
	Mr Moore
	Mr Quinlan
	Mr Smyth
	Mr Stanhope
	Mr Stefaniak
	Mr Wood

Question so resolved in the negative.

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Visiting Medical Officers

MR STANHOPE: My question is directed to the Minister for Health, Housing and Community Care. Are the Canberra and Calvary hospitals in negotiations with VMOs on their payments for work in those hospitals, and have any VMOs indicated an intention to change their current arrangements and undertake public sector work at Calvary Hospital only? If so, what impact would these negotiations have on Canberra Hospital's budget or its ability to retain VMOs for public sector work at the Canberra Hospital?

MR MOORE: Yes, yes, and of course it will have an impact on the way those VMOs work. Yes, there are negotiations going on with VMOs because there are always negotiations going on with VMOs. They are individual contractors and the hospitals negotiate individually with those contractors. There are a number of VMOs who determined they would only work at one hospital or another. That is their choice. One of those, for example, a very public one, is Dr Phil Jeans. You may recall that he was dissatisfied with the way surgery was operating at Canberra Hospital. My understanding is that he determined that he would only work with public patients at the Calvary Hospital. That does have an impact.

One of the ways we are attempting to deal with this, I expect, within this coming month, in the next few weeks, is by releasing a draft health services plan which will propose a method of operating so that work is rationalised between the two hospitals. It will be a plan open for discussion.

MR STANHOPE: Thank you, minister. I have a supplementary question. Minister, could you give the Assembly an assurance that the negotiations currently being undertaken and the decisions being made by some VMOs to work at only one or the other hospital are not a direct result of the tendering process that is currently being conducted, with the consequent strengthening position of the VMOs in relation to their ability to pick off one hospital as against the other as a result of the decision not to grant much of the tender to the Canberra Hospital?

MR MOORE: The tendering process—I am sure members will be absolutely delighted with this—has resulted in over 600 patients being able to get surgery that they would not have got otherwise for a long time. The tendering process has delivered an extra 600 operations to category 2 and 3 patients. I very proud of that. I think each member of the Assembly should be very proud that that occurred.

Did it annoy some VMOs? Yes, it did annoy some VMOs. Does that mean that there is going to be an impact on the hospitals? Of course, because we are dealing with contractors. That is what VMOs are. They are contractors, just the same as a plumbing contractor who comes into your home and agrees to do certain work. It is exactly the same with VMOs. They have a contractual arrangement, not with me but with individual hospitals. Each of those VMOs—there may be some exceptions, but I am not aware of any—work at the private hospitals as well, maybe Calvary Private, John James, Lidia Perin and the National Capital Private Hospital. Those contractors, those VMOs, have a whole range of choices. I don't think you should be feeling particularly sorry for a VMO who determines they are not going to work at Canberra Hospital and only have the other hospitals to work at. I assure you that it will not affect their income.

Mr Stanhope: How much more is it costing us?

MR MOORE: Will it have an impact on our waiting lists? Watch this face, Mr Stanhope. When Mr Berry was health minister, the waiting list went up and up and up. It went up at an exponential rate from just over 1,000, as I recall, to something in the order of 4,500. What has happened since Mrs Carnell was health minister and I have been health minister is that lists have come steadily down. There have been a couple of blips.

Mr Berry: Hah, hah!

MR MOORE: Mr Berry laughs. I had just under 5,000 on the waiting list. It is now closer to 4,000, and I am proud of that. As I have said to members, the critical issue is whether these people are having their operations done within the clinically required time. That is the critical issue. It is not happening at the moment, but it is getting better and better, and we are getting closer and closer. It is a constant improvement, and that is what we intend to deliver.

Amaroo Community Precinct

MR QUINLAN: My question is addressed to the Minister for Urban Services. I hope he will clarify a matter for me. I have had some calls from some upset residents in Burdekin Avenue, Amaroo, regarding the proposed community precinct. Can the minister tell the Assembly why a letterbox drop last week revealed that three schools and a community shopping centre have been relocated, contrary to the original design and I think actually contrary to the shading within the PALM Internet site as we speak. Can the minister tell the Assembly how this has been allowed to go ahead without thorough, proper community consultation, and is the plan open to comment by the public or is it the case, as PALM stated in a forum last week, that this proposal is a fait accompli? What sort of consultation are we operating when people are informed only after the decision has been made?

MR SMYTH: Mr Speaker, again we put forward premises without understanding the Territory Plan. The area that Mr Quinlan refers to has an overlay on it that says that it is open and it is subject to future development—that what is put there is indicative only and that its use will be determined at a later date. It is set out in the Territory Plan. The process that determines greenfields sites and their development is set out in the Territory Plan—oddly enough, the Territory Plan that Bill Wood put in place in 1993. We are following that procedure now. Further work has been done. It has been decided to change some areas. That is now being presented to the community for comment.

MR QUINLAN: I have a supplementary question. Can the minister inform the Assembly what tenders have been called for the site, and why were residents told at a meeting supposedly designed for consultation with residents that the decision was in fact made and set in concrete three years ago—and yet the PALM web site indicates that the community precinct areas are in a completely different place to the one in which they are being constructed?

MR SMYTH: Again, Mr Speaker, this might be one of the areas that Mr Corbell refers to as some of Labor's past planning mistakes that Bill Wood as the previous planning minister might have got wrong. There is a process for greenfields sites. There are overlays. If you want, we can always arrange briefings for those opposite that do not understand the Territory Plan that they put in place in 1993. I am always happy to arrange that. There are always changes in greenfields sites. The indicative plans that are laid out are amended in accordance with the Territory Plan. We are now going through that process.

Mr Quinlan makes some assertion on things that PALM is meant to have said. I was not at the meeting so I cannot comment on that. I will check and find out when this work was done and bring that answer back to the Assembly.

Urban Open Space

MR CORBELL: My question also is directed to the Minister for Urban Services. I ask the minister whether he can explain the following statement in the *ACT Land Stock Assessment—Evaluation of Vacant/Unleased land in the Weston Creek District*, a report prepared by your department:

> This report covers the first step in an extensive research plan designed to identify infill sites for each district across the Australian Capital Territory (ACT) for their integration into future Land Release programs.

MR SMYTH: Mr Speaker, this is again the question that Mr Corbell keeps harping about.

Mr Quinlan: No, it is the same answer but it is not the same question.

MR SMYTH: It is the same question. It is about the audit that is currently being done. If he wants to refer to the government's intention, it is quite clearly there in the land release program. Since that was started the Chief Minister has made the determination—and announced it to the public and to this Assembly—that we will not be developing designated urban open space. Unlike those opposite, who in the lead-up to their preselection indulged in a bit of internal argy-bargy where Mr Corbell has been assaulting the reputation of Mr Wood as planning minister and owning up on Mr Wood's behalf to all his planning mistakes, this government is determined to save urban open space as is appropriate.

That is why we have 24 action plans that are completed and in place. That is why Mr Humphries as the former planning and environment minister shifted a town centre. That is why we are not going ahead now with the new town at Jerrabomberra. That is why we will not be building townhouses on Tuggeranong Homestead as Bill Wood intended. And that is why we have set aside another hundred hectares of yellow box-redgum grassy woodlands to go back into the reserve system.

MR SPEAKER: Is there a supplementary question?

Mr Corbell: I was going to ask a supplementary question, Mr Speaker, but I am afraid I just keep getting the same answer so I will not ask it.

Education—League Tables

MR HIRD: My question is to the Minister for Education, Mr Stefaniak. Has the minister seen a report in the *Australian* newspaper that the New South Wales Labor—Labor—government is preparing league tables which compare the performance of government schools with that of non-government schools for year 12 students? What is the minister's view of this report? Is the ACT government considering the release of similar tables?

MR STEFANIAK: Mr Hird's question is timely, Mr Speaker. It is most apt at this time as the so-called league tables have been a controversial issue in the ACT over the last few months. I have seen the report to which Mr Hird referred. I must say that I was rather surprised by the about-face by the Labor government in New South Wales.

As members would be aware, this government has been considering the issue of providing more information for parents and the wider community about the performance of government schools. Recently, we announced that we would provide some initial information to parents. We have given an unequivocal guarantee, however, that we will not publish league tables comparing individual schools. This government will provide to

all parents information which currently goes to the school board members about how individual schools have performed against system averages.

My understanding is that the New South Wales government is actually publishing a ranking for all schools in the state, government and non-government, listing the schools from the highest ranking to the lowest. There are some serious problems with that proposal, Mr Speaker. My understanding is that New South Wales looks at individual scores in the higher school certificate over 90 and does not make any acknowledgment of the difference in complexity of subjects being studied by students; it adopts a simplistic approach. Adopting that simplistic approach means that no weighting is given to the difference between, for instance, a student undertaking a four-unit maths course, which is the most complex maths course a student can undertake, and a student undertaking the lightest maths load in New South Wales, which is called maths in society but which the students know as maths in space.

Mr Berry, the shadow spokesman on education, has had quite a bit to say on league tables over the past few months and has a motion on it on our notice paper. He has a problem now. ACT Labor is opposed to league tables; I assume that they are or they would not have put the motion there. The government has indicated that it is not going to publish league tables. But, just across the border, Mr Berry's mates in the New South Wales Labor Party are proceeding now to produce league tables ranking government and non-government schools.

Mr Berry: Name them.

MR STEFANIAK: Aren't they your mates, Wayne? I am glad to hear that; they probably are, too.

Mr Speaker, there is another element to this issue. At lunchtime today I released the results of national benchmarking in reading of year 3 and year 5 students in our government schools for 1999 and 2000. They show that the ACT continues to produce outstanding results for its students.

Earlier this year, I was able to announce that for our year 3 students last year we had 89.9 per cent achieve the benchmark in reading. We now have the results for our year 3 students for this year and they are very pleasing indeed. They have gone up from the 89.9 per cent for last year to 94.8 per cent of the students achieving at or above the benchmark.

Mr Smyth: What was the percentage?

MR STEFANIAK: It was 94.8 per cent, an exceptionally good percentage. Unlike other states which have government and non-government schools involved in testing—I think that South Australia still does that—only government schools are in the testing regime here. That is of great credit to those schools, to the parents and to the teachers.

As well, we have the results for our year 5 students. Last year we had 90.4 per cent achieve the benchmark. This year the figure has gone up to 90.8 per cent, another improvement. I do not have the results for the other states, but I think that would put us in a very good position in comparison.

One thing which should please members was the improvement in our indigenous students. Members will recall that I was most concerned that of our year 3 students tested in 1999 only 67 per cent were above the benchmark, which was only 1 per cent above the national average at the time. That has improved; we now have 87.7 per cent of our indigenous students achieving the benchmark and above. That is a very substantial improvement.

Mr Stanhope: It is good to see that you pulled your finger out; about time.

MR STEFANIAK: Mr Stanhope, this is all about improving our performance; that is why we test. I must commend our teachers and their support staff who have worked so hard to achieve this fantastic improvement. It is not confined to the year 3 indigenous students. Our year 5 indigenous students have gone from 69 per cent in 1999 to 80.9 per cent this year.

I will issue a word of caution. The results we have gathered are only for two years and in the case of our indigenous students we are dealing with relatively small statistical samples. I do say that as a word of caution. However, the trends are positive, the trends are very good indeed, and I commend everyone involved. The challenge now, of course, is to keep up the good work.

The problem for those opposite, unfortunately, is that they seem to have no idea and no policies and there ideological position is now being undermined by their friends across the border. I think that that is rather sad.

Clearly, the results I have mentioned are excellent. Members may be aware that we actually spend about $10 million a year extra on improving literacy and numeracy standards in our schools. We have had testing for four years. The fact that we can now work out the areas where more emphasis is needed and target those areas, improve those areas, improve the methods of teaching and improve performances in the schools that we know are lagging behind is showing benefits. The results are particularly pleasing.

I conclude by again congratulating everyone involved in the government education system.

MR HIRD: I have a supplementary question, Mr Speaker. I must congratulate the minister on that statement. Minister, will you be more secretive and follow the advice of the opposition and suppress this information on government schooling?

Mr Corbell: I rise to a point of order, Mr Speaker. Surely that is a hypothetical question.

MR SPEAKER: Yes, it is.

Mr Smyth: Mr Speaker, it can hardly be hypothetical when they have said that these lists should not be put together and released. It is not hypothetical; it is a statement of their policy. The question is totally in order.

MR SPEAKER: Order! The minister may not be aware of the Labor Party's policies. Perhaps the Labor Party's policies have changed. One does not really know quite what goes on.

MR STEFANIAK: I can comment on that, Mr Speaker. This government is about providing relevant information, putting it out there in the public domain; obviously, ensuring that peoples' rights are protected in terms of relevant privacy, but certainly about putting into the public domain relevant data, such as the data I have just put out, which is a great credit to our system and all involved.

MR SPEAKER: Thank you. That is the way to answer it.

Belconnen Swimming Pool

MR BERRY: My question, which is directed to Mr Stefaniak in his capacity as the minister responsible for sport, relates to the Belconnen swimming pool, or lack of it. I would like to award the minister zero out of 10 on his report card for delivering on promises on the swimming pool.

Mr Smyth: On a point of order, Mr Speaker: the standing orders quite clearly state that there should be no introductions to questions and that questions are to be concise.

MR SPEAKER: You can introduce. You cannot have an introduction on a supplementary.

Members interjecting—

MR SPEAKER: Dear me, it sounds like the Queensland parliament. Everybody is having a go, aren't they. Mr Berry.

MR BERRY: Thank you, Mr Speaker. I must say that if the people of Belconnen were writing out the report card they would say, "Should give up this subject."

MR SPEAKER: How about you giving up the question.

MR BERRY: I am coming to it, Mr Speaker. Does the minister think that all those little potholes from the sod turnings in which tadpoles swim during rainy weather are the swimming pools that he was supposed to—

Mr Moore: Mr Speaker, I have been invited to take a point of order. Mr Berry would be aware of standing order 117(b)(vi) which refers to ironical expressions.

MR BERRY: We are going to have to pay somebody soon to fill in the holes caused by all of those sod turnings. Would the minister care to deny that his six-year-old promise to build a Belconnen pool has come to a standstill, save for those potholes from the sod turnings, and that the people of Belconnen will miss out on swimming in the promised pool between now and the next election? Is this to remain the eternal promise—never to be delivered?

MR STEFANIAK: Mr Berry, really that question is quite amazing. I think there was a sod turned by us and one turned by you before the 1995 election.

Mr Berry: Five and a half.

MR STEFANIAK: Five and a half years it might be Mr Berry. I seem to recall that it took about 11 years for that to happen with the Tuggeranong pool, and the Alliance government started that one. There were a lots of little jerks and false starts with that pool, including some interesting problems that Ros Kelly had over a five-year period. So, do not throw stones.

There is one thing that Mr Berry is probably accurate about. As the next election is in October, I do not think it is possible to build a pool in 12 months. So he is probably right about that one, unfortunately.

MR BERRY: Mr Speaker, I wish to ask a supplementary question.

MR SPEAKER: A supplementary but with no preambles.

MR BERRY: Will we be spared any more sod turnings next year?

Ms Carnell: Hypothetical.

MR STEFANIAK: Hypothetical. Mr Berry, I think I said in this place about six months ago that hopefully the next visit I make to the Belconnen pool will be to swim in it. I certainly do not intend turning any more sods and I certainly hope you would not either.

Yarralumla Brickworks

MS TUCKER: My question to Mr Smyth relates to the proposed development of Yarralumla brickworks and the surrounding area. I am interested to know what advice the minister has sought regarding the impact of the current proposals being put up for discussion and consultations. What would be the impact of the proposals on native grasslands on the site?

MR SMYTH: The government has employed consultants to liaise with the community and develop plans for that area. I await the consultants' report.

Ms Tucker: I did not hear what the minister has just said. Can the minister repeat his answer?

MR SPEAKER: He said consultants have been engaged.

MR SMYTH: Mr Speaker, I will repeat the answer. The government has employed consultants to undertake that work. I await the consultants' report.

MS TUCKER: I ask a supplementary question. No notice has been given that there are grasslands in this area. Is it not your responsibility as minister for the environment to ensure that areas of moderate conservation value grasslands are integrated into any

considerations? Why has that not been done? Nobody in the community knows that those grasslands are there and they are not marked on the map.

MR SMYTH: Again, the consultants have been asked to comment and develop plans for that area. I await the consultants' report. I understand that it will take into account many things and I am sure that environmental considerations will be part of that.

Canberra Hospital

MR HARGREAVES: My question is to the Minister for Health, Housing and Community Care. An article in the *Chronicle* newspaper of 7 November reported that the Canberra Hospital was investigating claims that doctors had told a patient's daughter that because her mother was not privately insured, she did not fit the hospital's admission criteria. In the article the minister is reported as saying the doctor's comments might have been misunderstood; that the doctor may have been referring to admission to a private hospital. Given that the patient was at the Canberra Hospital, it is rather difficult to accept there was a misunderstanding.

Can the minister say if the hospital's investigation is complete? Was the patient's daughter in fact told that her mother would have been admitted to the Canberra Hospital if she had private health insurance?

MR MOORE: I think it is important to set out the base line. Anybody who wishes to go to the Canberra Hospital can do so. Whether they live here in the ACT or whether they live in New South Wales, they are entitled to come in and they will then be assessed on clinical need. The individual may not have any private insurance. Under those circumstances the hospital would deal with them in that way. They may have private insurance and if they do so the hospital will still deal with them as a public patient unless they elect to use their private insurance, which then gives them a special choice. That gives them the choice of their particular doctor.

I do not know the particular circumstances, although I have asked for a report on them. It has not come to me yet and, Mr Hargreaves, I will be happy to share it with you when I get it. But what we have is a situation where the Canberra Hospital—one of the best hospitals in Australia, as identified by Australian accreditation standards—is prepared to take anybody who comes through their door and deal with them on the basis of clinical need.

That having been said, it is appropriate for the hospital to encourage people to use private insurance. It would be appropriate for the hospital to do that not only because it gives the person their choice of doctor if they want that but the more patients that use their private insurance the better off the financial position of the hospital will be. But nobody is forced to use their private insurance. There is a very clear policy and that has certainly been made clear to all of the staff within the hospital.

There are some individual doctors who have at times acted inappropriately in this way. When my office hears of cases like that we approach the CEO of the hospital, who in turn ensures that the doctor is reminded of his or her responsibility. It just may have been one of those cases.

MR HARGREAVES: I ask a supplementary question. Can the minister expand on the comment he just made that it is quite appropriate for the hospital to encourage people who front at the accident and emergency centre to use private insurance? Surely it is the responsibility of the people at accident and emergency to concern themselves more with the medical condition of people than with what is more appropriate—the financial health of the hospital or the medical health of the people.

MR MOORE: Priority one is patient care. I think that is the point you are making. Patient care is the first priority of all our nurses and members of the medical professions. They know that. I constantly reiterate that. The hospital knows that. That is what is delivered. The accident and emergency area has a very high level of satisfaction among people who have been through it and whom we have asked, "Were you treated well?" That does not mean to say that sometimes some people are not happy.

A huge number of people go through that area. They are put into five categories. If someone arrives with very serious burns, the whole area focuses on them and makes sure that it deals with them. The result is that someone in category four or five, people who need the care of their GP, will sometimes be asked to wait. I have been in the emergency area when it has been treating a burns patient, and the effort put in was absolutely brilliant. If there is a burns patient there, other people have to wait. Sometimes those people get very unhappy if they have to wait three or four hours or even longer. The most important priority is patient care. However, it is entirely appropriate for the Canberra Hospital to invite people to use their private insurance and to let them know the advantage.

ACT Housing—Part-time Residents

MR OSBORNE: My question is to the new minister for housing. It is in response to an inquiry from one of my constituents. I am hoping the minister can explain an aspect of the government's housing policy. There are a number of ACT Housing tenants who have children that live in the home on a part-time basis due to their parents formally living apart. Sometimes shared custody arrangements are complicated even further when partners remarry, which is the case with my constituents, and either they have new children or one or both bring children with them into the marriage. The scenario can be very complex as different groups of children come and go from the house during the week.

I am informed that apparently a popular formula for shared custody is for one of the parents to have the children for five days per fortnight. This allows the children to stay in the two homes on the same days every week and amounts to about 35 per cent care. In such a case where children stay in the home for five days per fortnight, family allowance supplement payments are paid from the department of social services.

Why is this extra allowance included when rental payments are calculated by your department but the children are not considered to be residents of the home until they live there for at least 50 per cent of the time? The department seems to be very happy to take money from part-time residents of the family but does not include them in important decisions such as the size of the house the family lives in. Is this not grossly unbalanced and unfair and a form of discrimination against these families?

MR MOORE: I thank Mr Osborne for the question. Next week I will be making a major statement in response to the Select Committee on Public Housing. Apart from that, I will try to deal with some of the questions asked. Recently I announced as a housing policy that we would move away from bed-sitters and single-bedroom units so that the base level unit of public housing was a two-bedroom unit. This will mean that a large number of the people you are talking about will be able to manage their family in a reasonable way, but perhaps not people who have a large number of children they have to care for. Each application for housing is considered on its merits by Housing. We are very aware that people provide housing under a number of different arrangements. That is something we will have to move on.

I turn to the question about payments. Ms Tucker and I have had some discussion about a possible disallowance motion, which I understand she has now withdrawn, with regard to changes in the way the Commonwealth pay their allowances and the impact that has on ACT Housing. It is a particularly complex matter. Mr Osborne, I would be delighted to offer briefings to you or any other member on that matter. I believe I have answered your question, but if I have missed something I will be happy to take it on notice.

MR OSBORNE: I ask a supplementary question. I do not want the minister to inform us of what he is going to announce next week. My constituents think it is unfair that they are forced to pay extra rent because they are receiving extra money. My information is that Housing does not take into consideration the number of children when they are assessing an application for a house. I am happy to work with your office on it, and we might come back to it later.

MR MOORE: A number of members work through my office to ask questions about specific families and, as was the case when Mr Smyth had responsibility for housing, the departmental liaison officers work to find information as quickly as they can. My understanding is that that works very effectively. In specific cases we are always willing to try to find out information for members and to resolve the matters. We will continue to try to do that. I realise that you asked a generic question based on a specific example, but if you can tell us about a specific case we can deal with it.

Legal Aid

MR WOOD: My question is to Mr Humphries. He might have expected it. It is on legal aid. If you read the *Canberra Times*—I do not know whether this Chief Minister reads it or not—you will have noticed an article today stating that the Commonwealth may not be able to recover some $8.7 million because the alleged thief cannot obtain legal aid and the trial cannot proceed at this stage. The article goes on to say that the ACT, specifically the Attorney, has not applied to the Commonwealth for additional legal aid funding that may be available. I ask for verification here. If the Commonwealth has established a contingency fund to supplement legal aid funds in lengthy and expensive trials, have you asked the Commonwealth for supplementary funds in this instance?

MR HUMPHRIES: I did see the article in the *Canberra Times* today. I certainly am aware of the pressure on the Legal Aid Commission which emanates from what are now designated as Commonwealth matters causing a strain on the available budget of the commission. That particularly relates, I understand, to a relatively small number of trials on which a large amount of money is expended. I am not aware of an approach having

been received by my office from the Legal Aid Commission to make a request on its behalf to the Commonwealth government for additional funds to be released. I can assure members that I will not hesitate to ask for the release of any available funds from the Commonwealth for the purposes of funding any matters through the commission that deserve that kind of funding.

I am aware that the Commonwealth has attempted to address the problem of large trials consuming a large amount of resources with that kind of reserve. I met with the commission a couple months ago and discussed the general position of the commission. The issue was not expressly raised in that form, but I remain willing to assist the commission to obtain any funds that might be drawn down from the Commonwealth.

I am quite happy to indicate as well that I think the Commonwealth needs to reconsider its policy on legal aid funding. I think the present arrangements are insufficiently flexible. A number of very serious pressures are being placed on not only the Legal Aid Commission in the ACT but commissions around the country. They could be avoided if a different policy approach was taken by the Commonwealth.

MR WOOD: Thank you, minister. I ask a supplementary question. Would you be aware whether, up to date, funds appropriated by the Assembly for defendants facing territory charges have been switched to defendants facing Commonwealth charges?

MR HUMPHRIES: No, I am not aware of that. We now have fairly strict rules about quarantining so-called ACT grants of aid from Commonwealth grants of aid, although obviously they are both administered through the ACT Legal Aid Commission. Where defendants are facing multiple charges, some of which are Commonwealth in nature and some of which are ACT in nature, I know that there are policies for the money to be shared from the two buckets. I will follow up the matter Mr Wood has raised. I am not aware of any such problem, but if there is such a problem I will be happy to alert the Assembly to that matter.

Education—IQ Tests for Enrolment

MR RUGENDYKE: My question is to the Minister for Education. Minister, I am aware of a family which removed their son from one of the local private schools in protest at being told that their son would need to pass an IQ test to continue in the school. Could it be true that a school in the ACT would be able to accept only children with a high IQ? If so, do you support this method of student enrolment?

MR STEFANIAK: I note that it was for a private school. If Mr Rugendyke gives me the details confidentially, I can follow up on that. I certainly have not heard of the incident or of anything like it happening before in terms of passing an IQ test. In New South Wales there are some selective schools where students have to do so. I am aware of some non-government schools in the ACT not taking certain students, expelling certain students and things like that; but, in terms of actually sitting for IQ tests, I am not aware of that incident. If you fill me in on it, I will chase it up for you.

MR RUGENDYKE: I have a supplementary question. Minister, if it does turn out that this school is conducting IQ tests of children, is it immoral for this school to advertise its level of scholastic achievement in light of this style of discrimination?

MR SPEAKER: That is getting pretty close to asking for an opinion, Mr Minister.

Mr Stanhope: It is a good point, though.

MR SPEAKER: That may be so. Nevertheless, it is not necessarily for the minister to comment on it; that is what I am saying.

MR STEFANIAK: That is probably right, Mr Speaker; but I am certainly happy to take note of the details and follow up for Mr Rugendyke after question time.

Mr Humphries: I ask that all further questions be placed on the notice paper.

Needle Distribution Centres

MR STEFANIAK: Yesterday, I took on notice part of a question from Mr Rugendyke, who indicated that on Monday morning on ABC radio it was said that drug dealers were going into needle distribution centres and collecting 100 needles at a time and asked whether that had been reported to the police. The answer to that question is that no formal report of that activity has been made to the police. The police advise that, provided needle exchange staff have not been coerced, threatened or in any way forced to provide needles to particular individuals, police would have no grounds to intervene in that practice. The police maintain a policy of minimising police presence in and around the needle exchange centres. However, police do respond to particular incidents when requested to do so and will continue to do so.

ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE
Report—Government Response

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (3.12): For the information of members, I present the following paper:

> Administration and Procedure—Standing Committee—Report—The operation of the *Legislative Assembly (Broadcasting of Proceedings) Act 1999 (presented 28 June 2000)*—Government response, dated November 2000.

I move:

> That the Assembly takes note of the paper.

I would like to thank the Administration and Procedure Committee for its work in preparing the report on the operation of the Legislative Assembly (Broadcasting of Proceedings) Act 1997. The report is a timely one. It is appropriate that developments in technology now be used to provide the ACT community with greater access to the proceedings of its Assembly.

The ACT is a clever community. It is a territory well equipped to take its parliament to the people. It has the highest rate of home computer and Internet usage in Australia. The TransACT initiative, for example, will place Canberra at the forefront of communications technology, with a world first roll-out of a fibre to curb broadband

digital cable network. Through advanced digital communications systems, TransACT will provide the community with enhanced opportunities to access information.

The government is mindful of improving services to the community. Using the benefits of new technology, the Canberra Connect initiative will improve the quality and range of government services available through shopfronts and electronically. Extending broadcasting of the proceedings of the Assembly and its committees to a wider audience would complement this approach. It has the potential to involve the community more closely in the workings of democracy and is consistent with the government's platform of open and accessible government.

Open government encourages community interest and has the potential to build common goals, civic pride, networks and trust. Making government and its formal processes more accessible to Canberrans blends well with my commitment to building social capital. Many hundreds of Canberrans and community groups already participate in a wide range of community consultations undertaken by the government each year. Broadcasting Assembly proceedings would involve a larger community audience in the workings of government. Ultimately, we will be able to log into proceedings at any time during sitting periods or public committee hearings.

The government agrees with the overall tenor of the committee's recommendations. It recognises that the current legislation is not sufficiently flexible and requires amendment. To rectify this situation, the government proposes to bring forward a bill amending the current legislation to facilitate greater access to the proceedings of the Assembly. Clearly, while enhanced access is a priority, consideration will need to be given to cost effectiveness. The demand for electronic and other access to Assembly proceedings will need to be addressed.

The government agrees that there should be an obligation on the part of the standing committee to report to the Assembly on the broadcasting of public proceedings. However, the government is of the view that the need for this to be embedded in legislation is questionable. The Assembly standing orders would provide a more flexible and effective alternative for achieving the same result. I look forward to the standing committee reporting back to the Assembly on the outcome of its investigations. I am confident that this Assembly will take up the challenge of making our parliament more accessible to the people of Canberra.

Question resolved in the affirmative.

BRINGING THEM HOME—GOVERNMENT IMPLEMENTATION REPORT 1999-2000
Paper

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (3.15): For the information of members, I present the following paper:

> Bringing them home—ACT Government Implementation Report 1999-2000.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, on 26 May 1997, the Commonwealth government tabled the Human Rights and Equal Opportunity Commission's *Bringing them home* report. This report contained 54 recommendations from the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families.

The ACT government responded formally to the recommendations contained in the *Bringing them home* report for the first time in 1998. This response outlined proposed government initiatives to support families and assist in the healing process, individual responses to the 54 recommendations of the report, and key measures already implemented along with relevant policies and practices.

As recommended by the Ministerial Council on Aboriginal and Torres Strait Islander Affairs, the 1999-2000 report covers a financial year and takes a thematic approach under three headings. The first is "Bringing them home—the journey revisited", which outlines the background to this report, including developments in implementing the recommendations so far.

The second is "Acknowledgments and reunion", which describes new activities and progress relating to acknowledgment, apology, family tracing and reunion. The third is "Rehabilitation and self-determination", which addresses recent developments in areas such as wellbeing, healing and guarantees against repetition.

Mr Speaker, I would like to take this opportunity to acknowledge the work of the Canberra Journey of Healing Network, formerly the Canberra Sorry Day Network. The network, through its implementation task force, has provided valuable community feedback on implementation issues.

The government has once again honoured its commitments and has made some very significant achievements, including the graduation of two trainees, one male and one female, from the ACT government sponsored mental health worker program at Charles Sturt University; the production of a reconciliation week concert entitled *Horizons—Students Dreaming Reconciliation*, by ACT and New South Wales government schools and ACT independent and Catholic schools; and the establishment of the Aboriginal Justice Advisory Committee to assist indigenous people to participate in the decision-making processes that impact on indigenous people in the criminal justice area.

Further achievements included the establishment of an indigenous youth accommodation service to provide medium-term and crisis accommodation; the establishment of an indigenous foster care program which comes under the auspices of Open Family Inc ACT and is run by an indigenous committee with indigenous staff; and the establishment of a designated position for an indigenous liaison officer at the Belconnen Remand Centre to provide support and assistance to indigenous detainees as well as liaise with indigenous health organisations and relevant community support groups.

In addition, there was the launching of the ACT indigenous employment strategy, which was developed in consultation with the business, employment and training community through the employment services industry forum which included indigenous people; the establishment, separate from the government, of the Indigenous Chamber of Commerce, a very important initiative in that respect as well; and continuing consultation with the local Aboriginal and Torres Strait Islander community, including the ACT Cultural Centre Advisory Committee and the ACT Aboriginal and Torres Strait Islander Consultative Council, on the development of the Aboriginal and Torres Strait Islander Cultural Centre.

Mr Speaker, as well as reporting on what we have already achieved, the 1999-2000 implementation report also contains a number of significant commitments, including the allocation of $30,000 from the ACT heritage grants program for Aboriginal heritage projects, including the recording and interpretation of regional oral histories, stories, heritage and culture; and the announcement of the handover of the ACT Department of Health and Community Care's accommodation at Ainslie to the Winnunga Nimmityjah Aboriginal Health Service during NAIDOC Week celebrations in July of this year.

Further commitments included the development of a draft Aboriginal and Torres Strait Islander policy framework by the ACT interdepartmental committee on Aboriginal and Torres Strait Islander issues; the development of strategic plans in the areas of indigenous employment, health, education, justice, housing and training which address underlying issues relevant to the *Bringing them home* report; the transfer of a small numbers of properties to a newly established indigenous housing project, including a grant to assist with establishment costs and quarterly funding to assist with administration of the project.

In addition, there was the resolution of the ACT Legislative Assembly Standing Committee on Health and Community Care to undertake a new inquiry into the state of Aboriginal and Torres Strait Islander health in the ACT and report on strategies for improvement and the completion of the ACT Aboriginal and Torres Strait Islander regional health plan 2000-04, which forms part of the Commonwealth, ACT and ATSIC tripartite Aboriginal and Torres Strait Islander health agreement and sets out underpinning principles, key directions and goals for government and community health providers.

There has also been the introduction of a tracking strategy for indigenous students and the introduction of improved data collection and reporting procedures for indigenous educational initiatives as well as approval of the indigenous literacy and numeracy strategy, which includes a conference for school principals and the indigenous community and establishes an indigenous teacher in the literacy and numeracy team to provide professional development for teachers of indigenous students.

Mr Speaker, there is a large amount in that program and the government is proud of its achievements in implementing the *Bringing them home* report recommendations. We acknowledge, of course, that there is much work yet to be done. I trust that there will be continuing interest in the ACT Assembly and in the broader community in the ways in which we can make sure that those recommendations are fully and effectively implemented in this community.

I commend the 1999-2000 report to the Assembly.

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

PRESENTATION OF PAPERS

Mr Humphries presented the following papers:

> Classification (Publications, Films and Computer Games) Act (Commonwealth)—Copies of:
> National Classification Code (Amendment No 2); and
> Guidelines for the Classification of Films and Videotapes (Amendment No 3).

GAMBLING AND RACING COMMISSION—THIRD REPORT

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (3.22): For the information of members, I present the following paper:

> Gaming Machine Act, pursuant to section 54D—ACT Gambling and Racing Commission—Contributions made by Gaming Machine Licensees to Charitable and Community Organisations—1 July 1999 to 30 June 2000.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, the report I have just tabled is the third report on the subject. The first two reports were produced by the Commissioner for ACT Revenue. However, responsibility for the report is now with the ACT Gambling and Racing Commission following its establishment in December 1999.

Members will recall that the government amended the Gaming Machine Act 1987 about three years ago because of its concern that, despite having a monopoly on modern gaming machines, many clubs were not contributing a fair share of their gaming revenue to the wider public, specifically to charities, the poor and the needy in our community.

The commission's report provides information on three main aspects of the contributions: reporting compliance by licensees; details of contributions declared by licensees; and the extent of community contributions as a share of gaming revenue. The report is similar in structure to those provided by the Commissioner for ACT Revenue over the past two years and includes data on both club and hotel contributions. It is largely a statistical report and therefore can be used to make year-to-year comparisons.

Mr Speaker, the hotel group had gross gaming machine revenue in 1999-2000 of $302,153, which was a decrease of $13,112 on 1998-99. Net gaming machine revenue was estimated at $151,077, down $6,556 on the previous year. The six licensees contributed 12.04 per cent of their gross gaming machine revenue or 24.08 per cent of their net gaming machine revenue, about $36,377, to community groups. It should be

acknowledged that, despite a decline in their gaming machine profits for the last financial year, the hotel licensees' contributions were $8,748 higher than in 1998-99.

Unfortunately, the picture is not quite as good among ACT clubs. In the reporting period, the club industry had gross gaming machine revenue of $163.6 million, a somewhat significant difference. There was an increase of nearly $16.7 million or 11.4 per cent on that received during 1998-99. After tax and subtracting an estimated allowance of 15 per cent of the gross gaming machine revenue representing the clubs' operating costs, the net gaming machine revenue received by all clubs is estimated at $101.5 million.

Mr Moore: That sure is a lot of money.

MR HUMPHRIES: It certainly is a lot of money. That is, a $101.5 million net profit was available to the clubs to provide services to their members and to the community. The majority of the net gaming machine revenue, some $90.5 million, remained within club operations, while $10.9 million was reported to the ACT Gambling and Racing Commission as community contributions. Of the reported $10.9 million, club contributions that were directed to associated organisations, infrastructure assets, and political and union organisations totalled $6.3 million. These contributions could be said to be not contributions to the wider community. They are contributions arguably to matters or organisations closely associated with individual clubs and their membership. Of the $101.5 million of net profit, the clubs donated $4.6 million in cash or in kind—

Mr Moore: How much?

MR HUMPHRIES: They donated $4.6 million in cash or in kind—not just in cash but also in kind—for the benefit of the wider ACT community; that is, outside the club membership base. The $4.6 million comprised donations to sport of $1.72 million, donations to charity of $1.1 million, in-kind donations of $790,000, donations to non-profit organisations of $860,000, and the use of club assets by the public at no charge of $120,000.

Mr Speaker, from a net profit of $101.5 million, the club industry gave just $1.1 million to charity organisations and for charitable activities in the ACT. That equates to just over 1 per cent of net gaming machine revenue and reflects a decrease on the 1998-99 contributions of $240,000; that is, a quarter of a million dollars less than the previous year.

I should acknowledge that not all clubs have shown what I would regard as a regressive attitude towards these things. I acknowledge that nine clubs in the ACT declared contributions in excess of 20 per cent of net gaming machine revenue and a further 26 clubs declared contributions of between 5 and 20 per cent of net gaming machine revenue. While these clubs are clearly pulling their weight, they are mainly small clubs with limited turnover. However, the overall value of the club industry's contributions to charitable organisations and for charitable purposes still falls well short of what this government considers a reasonable level of contributions to the needy and disadvantaged groups within our community.

Mr Speaker, I strongly believe the many of our clubs still have the capacity to contribute far more significantly to charitable organisations and for charitable activities than we presently see and, given their levels of profit, this certainly could be achieved without any need for reductions in current levels of contributions to sports and other non-profit activities.

The government tabled in the Assembly during May 1999 a further amendment to the Gaming Machine Act 1987. The amendment required a mandatory minimal level of contributions to be made to the wider community—at least 3 per cent of net gaming machine revenue to go to charity or for charitable purposes and at least 2 per cent of net gaming machine revenue to go to other activities or organisations, such as sport and the arts, to enhance the social fabric of our society. The government had to defer the debate on the amendment bill because it could not get sufficient support in this Assembly to have the bill passed.

I was astounded that the stumbling block actually was the proposed 3 per cent of net gaming machine revenue to go to charity or for charitable purposes. A revised amendment bill is scheduled for debate next week. This amendment bill does not provide for a specific percentage of net gaming machine revenue to go charity or for charitable purposes, but it will require clubs to contribute a minimum of 5 per cent of net gaming machine revenue to community contributions. Also, it provides that expenditure on such things as infrastructure, political parties or trade unions cannot be claimed by clubs to be part of their mandatory contributions.

Mr Speaker, my comment of some 12 months ago in relation to the initial amendment bill was that it was not too much to ask for an industry which currently enjoys significant financial benefits from the monopoly it has on gaming machines to share those gains with others in the community. Given the clubs' continuing performance on charitable contributions and the relatively small level of minimum contributions planned for the amendment bill, I believe that the club industry has no reason to object to its community contribution obligations.

The report contains comprehensive data that would be useful to Assembly members and the ACT public in the ongoing debate on government policy with respect to gaming machines and related matters. I commend the report of the Gambling and Racing Commission to the Assembly.

Debate (on motion by **Mr Quinlan**) adjourned to the next sitting.

GOVERNMENT CONTRACTING AND PROCUREMENT PROCESSES—SELECT COMMITTEE
Report—Government Response

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (3.31): I present the following paper:

> Government Contracting and Procurement Processes—Select Committee—Report *(presented 29 August 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, I have a speech which I could give but, in light of the time, I wonder whether members would agree to my having the speech incorporated in *Hansard*.

Leave granted.

The speech read as follows:

> Mr Speaker, I present for the information of Members the Government's Response to the Select Committee Report on Government Contracting and Procurement Processes in the Australian Capital Territory.
>
> Members will recall that the Legislative Assembly resolved to appoint a Select Committee on 6 May 1999. I would like to thank the Committee for the work it has completed. There were a significant number of public hearings and it produced an important Issues Paper earlier this year, which provided an opportunity for both the community and the Government to suggest ways that procurement policies and practices in the ACT could be improved.
>
> The members of the Select Committee, Mr Stanhope, Mr Cornwell and Mr Osborne, will be aware that the Government's submission to the Committee proposed the most significant reform of procurement since Self Government. There was a significant amount of work undertaken in revision of Government contracting and purchasing guidelines prior to the Committee completing its review, much of it published in 1999. During the current year , and in light of the Sherman Report presented to this Assembly fast February, we have made further progress in this area.
>
> My Government acknowledged in its submission to the Committee that improvement was needed. To this end, and as we outlined in our submission, we propose to introduce legislation, in the December sitting, to create and empower the ACT Government Procurement Board.
>
> The Procurement Board will provide a high level of scrutiny and review of procurement activities in the ACT. It will be asked to specifically review procurement intentions for projects over $1 million and those contracts involving significant risks to the Territory. It will also oversight the implementation of the purchasing accreditation system, which is designed to enhance procurement skills within the ACT Government Service.
>
> Mr Speaker, members will be aware that in recognition of the importance placed on this issue by my Government, on the 20 October 2000 resources identified in the Department of Urban Services were transferred to the Department of Treasury and Infrastructure specifically to establish and to provide Secretariat support for the Procurement Board.
>
> Mr Speaker, we have commenced a program of reform of procurement practices within the Administration as evidenced by our actions, and we are responding positively to the recommendations of the Select Committee Report. I am very confident that we are adopting the right strategies to address the perception formed by the Committee that there is a gap between theory and practice in contracting and

procurement. If there is a gap we will close it. We will aim to provide a best practice procurement infrastructure to be adopted in the Territory.

I compliment the Select Committee for the comprehensive approach shown by its report and commend the Government Response to the Assembly.

Debate (on motion by **Mr Stanhope**) adjourned to the next sitting.

FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE
Public Accounts Committee Report No 24 of 2000—Government Response

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (3.32): I present the following paper:

Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Public Accounts Committee Report No 24—Review of Auditor-General's Report No 4, 1999 *(presented 29 June 2000)*—Government response.

I move:

That the Assembly takes note of the paper.

Mr Speaker, I ask for leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

The speech read as follows:

Mr Speaker, I have presented the Government's response to the Standing Committee on Finance and Public Administration Report No 24, 2000, "Review of Auditor-General's Report No 4, 1999—Financial Audits with years ending to 30 June 1999.

Mr. Speaker, while the Committee did not make any recommendations in its report, it formally made four comments. Three of the comments relate to capital works and the fourth was in relation to a consultancy employed by InTACT.

Mr Speaker, I do not intend to go through all of the Committee's comments and the Government responses to those. However, I will take this opportunity to make a few observations.

Some of the issues raised by the Committee in relation to the capital works program have been well recognised by the Government, and appropriately addressed. But Mr Speaker, one particular comment at paragraph 4.3 of the report suggests that the Government announces some projects as budget initiatives, and takes credit for those projects when they are not expected to be completed in that year. The imputation is that the Government takes credit for something which it knows will not be delivered in the year.

Mr Speaker, unfortunately, this either suggests a lack of understanding of capital works on the Committee's part, or the Committee had been too busy creating that imputation to recognise that not all capital works projects will be completed in their year of commitment.

In fact Mr Speaker, the larger the project, that is the more significant the initiative, the greater the possibility is that the project will not be completed in the year of commitment. It will not be feasible to complete larger projects within the year. It is also important that there is a regular flow of work to the market throughout the year.

Another comment that the Committee made was that the Mitchell Resource Recovery Station should either not have included in the program, or provision should have been made for the project to go ahead.

It appears that the Committee either did not want the disclosure of the project, or wanted the Government to allocate budget financing pre-empting the outcome of the tender process.

Mr Speaker, I commend the Government Response to the Assembly.

Question resolved in the affirmative.

VARIATION NO 114 TO THE TERRITORY PLAN—REVIEW—HERITAGE PLACES REGISTER—RED HILL HOUSING PRECINCT
Paper

MR SMYTH (Minister for Urban Services) (3.33): Mr Speaker, for the information of members and pursuant to the resolution of the Assembly of 28 June 2000, I present the following paper:

Variation No 114 to the Territory Plan—Review—Heritage Places Register—Red Hill Housing Precinct—Review prepared for Planning and Land Management, dated October 2000.

I move:

That the Assembly takes note of the paper.

Mr Speaker, in accordance with the Assembly's resolution of 28 June 2000, the ACT executive directed the ACT planning authority to review the Territory Plan as it relates to variation No 114 of the Heritage Places Register, the Red Hill housing precinct, to provide for a development intensity of not more than one dwelling on any block in the Red Hill housing precinct. Mr Speaker, the review has been completed and I now table the review report.

The review finds that one house per block is not intrinsic to the heritage character of the precinct. However, it does find that the controls within variation No 114 may not be adequate to protect the intrinsic character, which is related to the high ratio of landscape area to built form.

The review recommends the following in regard to controls within variation No 114: that the existing GFA limitations should be retained; that the existing limitations on a maximum of two dwellings per block should be retained; and that consideration should be given to introducing additional side and rear setback requirements and front setbacks specific to each street.

I have considered and accepted the findings of the review. PALM will now proceed to prepare guidelines which incorporate the new recommended setbacks.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

ENVIRONMENT PROTECTION ACT—TWO-YEAR REVIEW
Paper

MR SMYTH (Minister for Urban Services) (3.35): Mr Speaker, for the information of members, I present the following paper:

> Environment Protection Act, pursuant to subsection 167(2)—*Environment Protection Act 1997:* Two Year Review—November 2000.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, I am pleased to report today on the review of the Environment Protection Act 1997. Section 167 of the act requires that a review of the operation of the act be undertaken two years after its commencement and that a report of the review be tabled in the Assembly within six months of the end of the two-year period.

The Environment Protection Act established a single and integrated regulatory framework, replacing five separate pieces of legislation dealing with environmental protection. It also provides a mechanism for the ACT to meet its obligations under the intergovernmental agreement on the environment.

The objectives of the act are to protect the environment and achieve an appropriate balance among economic, social and environmental factors in decision-making. The provisions of the act are consistent with the principles of ecologically sustainable development and they encourage the community at large to accept responsibility for their actions in relation to the environment. The act covers a wide range of environment protection issues, including noise, water and air pollution, as well as the use of hazardous chemicals and the management of contaminated sites.

The terms of reference for the review were to examine the implementation of the administration and enforcement powers of the act, any redundancies, limitations or omissions, and the need for clarification or more specific interpretation of its provisions. Submissions were generally supportive of the way the act has been operating. Many of the suggestions made in submissions can be agreed to, as they would clarify the wording or procedures, or will be included in future review processes.

Some suggestions went beyond the scope of the review, while others arose from misinterpretation of the provisions of the act. A five-year review of the operations of the act was suggested in submissions and it is proposed to undertake such a review as additional provisions of the act, such as environmental audits, will have been utilised by that time.

Mr Speaker, the outcome of the review of the Environment Protection Act has been positive, suggesting that the operation of the act and its industry coverage have worked well since its introduction in 1998 and that the objectives of the act as they stand at this time are being met. There have been no appeals about decisions under the act to the Administrative Appeals Tribunal and there are no ongoing complaints about compliance or inspection requirements arising from the operation of the act. A range of issues were raised which, when implemented, will increase the effectiveness of the administration of the act. A proposal for legislative change to implement the agreed suggestions will be brought to the Assembly in the first half of 2001.

In summary, the review report demonstrates that the ACT's environment protection legislation is working well and that some minor amendments can be made to improve the efficiency of its operation. Mr Speaker, I table the government's report on the review of the Environment Protection Act 1997.

Question resolved in the affirmative.

PRESENTATION OF PAPERS

Mr Moore presented the following papers:

> *Health Regulation (Maternal Health Information) Act 1998*—4th Quarterly Report 2000 (including a corrected March 2000 Quarter Report for the Reproductive Health Care Service).
>
> Financial Management Act, pursuant to section 25A—Quarterly departmental performance report for the September quarter 2000-2001 for the Department of Urban Services.

CANBERRA EDUCATION DELEGATION TO HONG KONG AND CHINA—AUGUST 2000
Paper and Statement by Minister

MR STEFANIAK (Minister for Education and Minister Assisting the Attorney-General): For the information of members, I present the following paper:

> Canberra Education Delegation visit to Hong Kong/China—16 to 27 August 2000.

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

Leave granted.

MR STEFANIAK: Today, I wish to table the report on the outcomes of the Canberra education delegation to Hong Kong and China. In August of this year, I led a Canberra delegation to Hong Kong and China. Accompanying me were Fran Hinton, chief executive of the ACT Department of Education and Community Services, and representatives of the Department of Education and Community Services, the Chief Minister's Department, the CIT, the ANU and the University of Canberra. Their names are in the actual report.

The key purpose of the delegation was to promote the sale of ACT education services in Hong Kong and China, particularly the opportunities for full-fee-paying students in Canberra schools, universities and the CIT. This delegation adopted a whole-of-government approach, promoting all levels of education and business relationships between ACT and Chinese government officials.

Mr Speaker, the ACT Department of Education and Community Services, the Canberra Institute of Technology, the ANU, the University of Canberra, the Australian International Hotel School, the Catholic Education Office and the Australian Defence Force Academy have agreed to work collaboratively to promote Canberra as the education capital under the banner "Team Canberra". I think that this is an important and effective approach, designed to enhance the educational and business outcomes for the territory of our relationship with China.

My august delegation participated in the Hong Kong education festival organised by Austrade. I also visited the Hong Kong Education Commission and two schools. The figures at that festival were up 12 per cent on last year. In Beijing I met with the Australian ambassador, Mr David Irvine, and held discussions with immigration representatives about business opportunities for the ACT in China and some problems that we had had in relation to Chinese students coming here.

We then travelled to Hangzhou to discuss the implementation of education business in the Canberra-Hangzhou memorandum of cooperation and we discussed arrangements for the Canberra business delegation's visit in November. It was there that the Hangzhou municipal government promised to provide the names of the 20 full-fee-paying students for our secondary schools, as outlined in the original memorandum of understanding.

From there we went to Shanghai and I met with parents of current students and addressed a seminar session attended by between 250 and 300 prospective students and their parents. We also signed a memorandum of cooperation between the ACT government and the Shanghai-Songjiang Education Commission, which covers a large area about 30 kilometres from the business district of Shanghai.

As an aside, members can see in the report a photograph—probably a bad one—of me and the Songjiang chairman actually signing that memorandum of understanding. Unless you can read Chinese, you probably will not be able to translate the signs there, but one of them is actually Fran Hinton's name. The English translation actually read "Gran Hinton"—G-R-A-N. The next time anyone sees Fran Hinton they should call her "Gran".

That was particularly fruitful; there is a lot of potential there. The most important thing with Shanghai was that there just seemed to be a huge amount of interest. With close to 300 prospective students and their parents, I have some very high hopes there.

The educational outcomes of the delegation visit include the fact that 49 students from Hong Kong have applied to come and study in Canberra and the ACT Department of Education and Community Services has established a working party to develop short-term professional development courses for Chinese teachers, with an emphasis on English language, IT and pedagogy. Apart from getting people here as full-fee-paying students, one of the big potentials for doing business is in training Chinese teachers in English, especially by having them come here for courses which are of less than 90 days duration. That is particularly easy in terms of immigration requirements; much easier, in fact, than longer periods. That was particularly attractive to the various Chinese officials we spoke to.

Also, sister school relationships have been established between schools in Canberra and China and we have now received more than 100 applications from Chinese students wishing to study in Canberra government schools in 2001. Linkages have also been formed between the UC, ANU and CIT and education commissions in Beijing and Hangzhou.

In each of the cities I visited, I met with high-level education officials and influential parents. The Department of Education and Community Services is progressing a number of business initiatives agreed to in China. Those include establishing a Canberra classroom in a school in Hangzhou to prepare fee-paying students for study in our schools and the establishment of a Canberra office to provide information to Chinese students and parents about education programs in Canberra.

There is a very big market there and we are well placed to get significant benefits from that market. For example, each year 12 million students in China want to go into our equivalent of year 10. Not all of them make it. Each year four million Chinese students finish year 12 and want to go to university and there are only 1.5 million university places there. That makes Australia a very attractive option, as members can see from the report. The Chinese are also quite impressed with our home stay arrangements and the fact that Canberra is a very safe city compared with similar cities in Europe and the United States which are also fairly popular destinations.

I look forward to ongoing benefits for the ACT arising from the visit and from the continuing work being done in China by the ACT Department of Education and Community Services and its partners in Team Canberra.

STATEMENT OF COMMITMENT TO RECONCILIATION
Ministerial Statement and Paper

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (3.46): Mr Temporary Deputy Speaker, I ask for leave to make a ministerial statement concerning reconciliation.

Leave granted.

MR HUMPHRIES: I would like to inform members of the Legislative Assembly about the statement of commitment of reconciliation that the government provided to the Council for Aboriginal Reconciliation at the end of October 2000. As members know, the Council for Aboriginal Reconciliation was established by the federal parliament in 1991 to promote the reconciliation process.

The federal parliament had rightly recognised that Australia had been occupied by indigenous people prior to the European occupation of 1788 and that there had been no formal reconciliation process between indigenous and other Australians. The Commonwealth directed the council to find out whether formal documents of reconciliation would assist the process. The council determined that any such documents would need to:

(a) express Australians' hope for reconciliation and recognise that much needed to be done to realise reconciliation;

(b) recognise that overcoming the consequences of this history and making progress is a shared responsibility of both indigenous and other Australians; and

(c) outline an ongoing process to enable Australians to work together towards a reconciled nation.

Consequently, the council developed draft documents and consulted widely on these. Members may recall that in August 1999 the Legislative Assembly passed a motion of support for the draft document for reconciliation and the council's consultation process. The government also provided detailed feedback on the council's draft national strategies to the council in April this year.

You will recall, Mr Temporary Deputy Speaker, that the council's big event, Corroboree 2000, took place in Sydney in May of this year. I think we will all remember the weekend of Corroboree 2000 as a very special moment in Australia's history which symbolised the essence of reconciliation. An integral part of that weekend was the launch of the council's documents of reconciliation. These documents consist of:

(a) *Corroboree 2000: Towards Reconciliation*, which is a principle document and which includes the *Australian Declaration Towards Reconciliation*; and

(b) *Road Map for Reconciliation*, which is an action document outlining four national strategies to advance reconciliation.

These documents propose a number of actions intended to promote and sustain reconciliation, to recognise Aboriginal and Torres Strait Islander people's status and rights, to overcome disadvantage and to promote economic independence. Importantly, they are addressed not just to governments but also to the private sector, to the community and to individuals.

The ACT government has been keen to ensure that the wider reconciliation process continues through the ACT and region. To this end, the former Chief Minister met with representatives from the council and from the Reconciliation Committee for the Australian Capital Region in September this year. The council commended the ACT for

its actions and progress on reconciliation and was particularly pleased with the Legislative Assembly's apology to members of the stolen generation and our support for the council's work. The Chief Minister also agreed to provide the council with an ACT government statement of commitment to reconciliation for inclusion in the council's final report.

The council will present its final report to the nation via federal parliament on 7 December, next week. This final report will document the past decade of the reconciliation process and include government commitments to the actions proposed in *Road Map for Reconciliation* as well as commitments to other actions to advance reconciliation. The council advised that it would be releasing extended versions of the strategies before the end of the year and that these extended versions would include additional proposals as well as more detail on the existing proposals.

Although it was not feasible or proper to endorse documents that were not yet released, we nonetheless supported the spirit of the then existing documents and have certainly made commitments that are relevant to a number of the council's recommendations. Importantly, the documents recognise that reconciliation is a shared responsibility of all Australians and a collective effort by government, business, community and individuals. The government endorses this inclusive and comprehensive approach.

The government has informed the council of the whole-of-government approach that we take to Aboriginal and Torres Strait Islander issues in the ACT. This integrated whole-of-government approach is being extended into the delivery of services.

The council was particularly pleased at the September meeting to hear of the success of the government's approach to improving educational outcomes for Aboriginal and Torres Strait Islander students in the ACT. Our statement of commitment also informs them of the educational scholarships to year 12 students, the Ginninderra nursing and medical scholarship and the government's partnerships with local industry in providing vocational education and training.

The government has already dedicated a number of positions to improving service delivery to Aboriginal and Torres Strait Islander people in the ACT, across health, education, justice, the arts, heritage, environment and children's, youth and family services.

The government is committing an additional full-time position in the Chief Minister's Department to reconciliation. This central agency position will maintain a focus and momentum for reconciliation in the ACT; provide a contact point for local, regional and national reconciliation networks; and facilitate coordination and organisation of reconciliation policy, programs and commemorative ceremonial events. This position is intended to be both a practical and a symbolic commitment to reconciliation in the ACT.

The council was also interested in our consultative mechanisms to include Aboriginal and Torres Strait Islander people in decision-making. The council was advised about the government's four Aboriginal and Torres Strait Islander specific advisory and consultative bodies and about a number of other key bodies which include representation by Aboriginal and Torres Strait Islander people.

The council recommends that governments celebrate dates and events significant to reconciliation, establish and promote symbols of reconciliation and observe protocols and include indigenous ceremony at official events. The government and the ACT Legislative Assembly have already supported the erection of signage in the local environment to acknowledge original Aboriginal occupation and traditional names within the area now designated as the ACT. I am pleased to report that this commitment is being progressed through the relevant agencies and by consultation with the relevant Aboriginal communities.

The government further pledges its commitment to negotiate with local Aboriginal elders and representative bodies to establish protocols, and to negotiate to include appropriate Aboriginal ceremony into official events. The government is committed to supporting events such as Reconciliation Week, the anniversary of National Sorry Day, and NAIDOC Week. As part of this commitment, the government arranges and funds the flying of the Aboriginal and Torres Strait Islander flags throughout these periods and encourages the participation of ACT government officers in these events.

The council was interested in ongoing funding for community-based reconciliation action. The government has funded a number of community groups and organisations in their work towards reconciliation, and funding requests will continue to be considered and assessed according to the relevant funding criteria and procedures.

As I indicated, the ACT government statement of commitment was provided to the council at the council's end-October 2000 deadline. Since then, some of the council's extended documents have been released and were received by the government in mid-November. In light of the timeframe for the council's report and in light of the council's approaching end, a response to the council is no longer necessary or appropriate.

The extended documents will nonetheless be considered in the continuing development of policy addressing indigenous issues in the ACT. Moreover, the key areas of the documents are being addressed at a national level by all governments through the Council of Australian Governments November 2000 agreement to develop a national framework for benchmarking, monitoring and reporting, with the aim of improving indigenous outcomes. The development of this framework is already in progress, and the ACT is playing its part in that process.

In closing, I would like to say that reconciliation requires a decency of spirit and a vision for a better future. It also requires us to translate this spirit and vision into policies and programs that make a practical difference. We still have a way to travel on the path towards true reconciliation, but I am confident that the ACT community is headed in the right direction and that our record in these matters will stand on its merits.

I present the following paper:

> Statement of Commitment to Reconciliation—Ministerial statement, 28 November 2000.

I move:

> That the Assembly takes note of the paper.

MR STANHOPE (Leader of the Opposition) (3.55): I would like to respond to the statement that the Chief Minister has made. I am pleased that today the government has reasserted its commitment to reconciliation. It has been a pleasing aspect of Assembly debates over the years on reconciliation and the rights of indigenous people within our community that there has been a significant degree of bipartisanship in relation to some of the very significant and symbolic aspects of reconciliation—the formal apology that the Assembly has delivered to indigenous people and the statement the Chief Minister has made today on the government's commitment to the reconciliation process, to Corroboree 2000 and to the *Australian Declaration Towards Reconciliation*.

We acknowledge the significant steps the government and the Assembly have taken from time to time in relation to reconciliation and indigenous issues. The Attorney, in his statement, summarised a range of commitments and initiatives that have been undertaken in the ACT. The opposition applauds the steps that have been taken. A number of very practical measures have been implemented. There has been significant resourcing of specific programs directly relevant to indigenous people within the ACT.

There have been significant symbolic gestures of support for reconciliation and indigenous people that have also been readily embraced by the government on behalf of the people of the ACT. In particular, its support of functions such as NAIDOC Week and *Bringing them home* and the willingness with which the indigenous flag is flown within the ACT are symbolic gestures of support by the Assembly and the people of the ACT for reconciliation.

As the Chief Minister said, there is always so much more that can be done in furthering practical reconciliation through a recognition of the severe disadvantage indigenous people have suffered in Australia over the last two centuries and continue to suffer and a recognition of the terrible spiral of despair and disadvantage that are an incident of the abuse, the dispossession, the disenfranchisement and the disempowerment that indigenous people have suffered in Australia over the last 200 years.

There are a range of areas of disadvantage, a range of significant wounds, of sorrows and hurt that have not yet been healed. The reconciliation process is a very important part of the process of healing the wounds of the past. We need to appropriately identify areas of continuing disadvantage and to appropriately resource those areas of disadvantage, in a genuine attempt to break the cycles of disadvantage and the despair that springs from that disadvantage and is reflected in the continuing truly terrible range of health indicators and other indicators in relation to employment, economic position and education, interfaced with the criminal justice system and abuse of substances. The list of significant disadvantage is quite long and at times despairing. The indigenous population in Canberra suffers very much to the same extent as indigenous communities throughout Australia do in relation to each of these significant indicators of disadvantage, including health and average life expectancy.

I acknowledge the announcement by the Minister for Education today that the latest benchmarking of year 3 and year 5 literacy or reading rates shows that significant progress has been made. It has to be acknowledged that the progress that has been made in the last year—from a Labor base, admittedly—does indicate that educational disadvantage at least is recognised. Very pleasing progress has been made, and we look

forward to the resourcing that has produced that result continuing and perhaps being enhanced and those advantages being continued in other areas.

We need to concentrate on the level of abuse of illicit substances. This is a particular problem that only fairly recently has come to the attention of authorities in the ACT. In the indigenous population here, particularly the young indigenous population, we have a serious problem, a dramatic problem, in relation to the abuse of substances, particularly heroin. That is an area that requires a dramatic emergency responses that I am not quite sure we have yet put into place.

Concerns about substance abuse by indigenous people are very well reflected in this year's annual report of the Community Advocate, which gives very close detail of a recent study of the rates at which youth in the ACT are coming before the courts and are being referred to Quamby or elsewhere or are the subject of action taken within the criminal justice system. The rates reported by the Community Advocate in her annual report are truly dreadful.

At no time during last year's reporting period was the percentage of indigenous detainees at Quamby less then 50 per cent. That is from a base of 1 per cent of our population. For almost all of last year half of the detainees at Quamby were indigenous boys. That is an alarming statistic. It almost certainly indicates high levels of substance abuse and significantly high levels of associated crime. The other disturbing aspect of those statistics is that they are a sign that indigenous children have fallen out of school education, probably at a very young age. The schooling that we would hope they might have achieved has not been achieved.

On anecdotal evidence available to me, there is a significant truancy and drop-out problem with indigenous children. A large number of Aboriginal children, starting from the ages of 12 and 13, cease attending school by the time they have reached the first year of high school. That is reflected in the levels of crime, proportionately, that indigenous children are involved in and the extent to which they so disproportionately represent detainees at Quamby.

I will conclude my remarks by touching on a couple of the comments the Chief Minister made about the *Australian Declaration Towards Reconciliation* and the national strategies to advance reconciliation which are set out in the *Road Map for Reconciliation*. The *Australian Declaration Towards Reconciliation* sets out a number of tests of governments. The Chief Minister said that the ACT government, in its formal response to the Commonwealth, supports the spirit of the Australian declaration.

The words "supports the spirit" of course have a touch of ambiguity about them. The Chief Minister explains the ambiguity by reference to the fact that we await clarification of the meaning and intent of the *Australian Declaration Towards Reconciliation*. I understand the point he makes, but I think there is an issue here that we certainly, and I think the ACT community, want to take up. Exactly how broadly will the ACT government support this spirit of the Council for Aboriginal Reconciliation?

I heard the Chief Minister's explanation of the difficulties in commenting in detail or supporting absolutely a document that is yet to be fully defined or explained. I accept that, but the point needs to be made that the extent to which the ACT government does

support or continues to support the reconciliation process and the continuing advancing of this process will be monitored, not just by the opposition of the Assembly but certainly by the people of the ACT.

The *Road Map for Reconciliation* sets out the further steps that are to be taken on the road towards reconciliation, a road we still travel, but the ACT government's commitment is described in the words "commitments that are relevant to a number of the council's recommendations". That is not really an all-embracing or particularly enthusiastic description of the level of commitment this government is making to the *Road Map for Reconciliation*. It is a very guarded commitment. One must ask the question: to which recommendations is there perhaps no commitment? At some time the Chief Minister might be able to expand on whether or not there are some recommendations to which there is no commitment and whether or not the description "commitments that are relevant to a number of the council's recommendations" was meant to specifically exclude. If it was not, then it is unfortunate language and is a matter I would like the government to explain further.

I reiterate that in the ACT, through the Assembly, significant steps towards reconciliation have been made. There is much more that could be done. There still needs to be a debate about the extent to which all communities around Australia might continue their focus on mandatory sentencing laws in some parts of the nation. There is a range of issues in relation to which we as communities should not take a backwards step or blink. We should maintain pressure in relation to every aspect of governance, laws or community activity that inhibits full reconciliation and the opportunity for indigenous people to shed forever the disadvantage which has been a feature of their lives for the last 200 years.

MS TUCKER 4.10): I will speak only briefly. Otherwise, I would only be repeating a lot of what Mr Stanhope said. I endorse what he said. While I was listening to Mr Humphries and Mr Stanhope I was looking at the flags in the chamber and thinking that we have come quite a long way. When I first suggested to the Assembly that we should have flags here to represent Aboriginal and Torres Strait Islander people it was then very controversial. I can remember being advised by one member that it would be a divisive thing that should not be done. I took that advice initially because I was new here and thought that person probably knew much more than I did. But I subsequently decided to persist with my suggestion, and by the beginning of this Assembly the flags were standing in this chamber. I cannot imagine anybody saying now that that is a divisive thing to do in this country.

In the few short years I have been involved in political debate we have come to the situation where both major parties and all members of the crossbench are behind the need for reconciliation and understand that it is one of the major challenges for this country.

Mr Humphries, in his closing remarks, said:

> … reconciliation requires a decency of spirit and a vision for a better future. It also requires us to translate this spirit and vision into policies and programs that make a practical difference

I endorse that absolutely, as Mr Stanhope did. Mr Stanhope went to some lengths to talk about the latter part—the necessity for the policies and programs that make a practical difference to be introduced, established and supported by the government of the day, whoever it may be. I support that call. I do not think that is happening nearly well enough in the ACT. I can tell you right now several services that need to be better funded and services that need to be established.

I have only had time to briefly skim through the government's report on implementation of the *Bringing them home* report. It acknowledges what government has done, which is what one expects government to do. But within existing services there is a lot of pressure and stress that needs to be addressed if the government is genuine in its commitment to making policies and programs work so that there is a practical difference.

Whether it is the need for Winnunga Nimmityjah and Gugan Gulwan to be better resourced, whether it is the need to have a greater focus on substance abuse, whether it is the need to have a rehabilitation facility for indigenous young people and older people, whether it is the need to look at housing issues for indigenous people in a more concentrated way, whether it is the need to look at the children dropping out of school, there are plenty of areas in which we can improve what is occurring in the ACT.

Fundamental to any reconciliation is respect for indigenous people. That means seeking advice from elders of their community, respecting their position and facilitating their input in any discussion. That means providing something as basic as transport, which often does not occur when there are consultations or discussions.

I did manage to read that section of the *Bringing them home* implementation report on cultural awareness training. You notice a quite inconsistent approach to professional and cross-cultural training among government departments. Corrective Services consider cross-cultural training as imperative and have facilitated compulsory cultural awareness training. In other departments it is sometimes available at training sessions and sometimes can be taken up. I would be interested to see an evaluation of how many people do take it up. What happens to people who consistently do not take it up? That may be where the problem lies in a particular work force. In any work force there may be a group of people who can cause quite serious damage just because of their prejudice and ignorance. While I appreciate and support having cross-cultural training, I think there needs to be more follow-up of who picks it up and, if people do not pick it up, why they do not. Do they need to be encouraged to do so or should the training be made compulsory, as it is in Corrective Services?

There is lots of work to be done, but I welcome this recommitment from the Assembly to reconciliation. I hope we can work together in that spirit.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs, Attorney-General and Treasurer) (4.15), in reply: I agree with Ms Tucker that the Assembly has come a long way come and that we have a very good basis for promoting a community debate about reconciliation. I hope that that is the view by the members as well.

Mr Stanhope asked in what areas was there reservation or some potential lack of full commitment on the part of the ACT government towards the statement issued by the Council for Aboriginal Reconciliation. The answer is: essentially in two areas. One is the question of self-determination and the other is the question of customary law.

My reading of the document produced by the council is that those two concepts are concepts very much put forward for application in parts of Australia where customary social structures for Aboriginal people remain relatively intact and where some application of the concept of self-determination or of customary law might be applicable. I have to say I have serious doubts as to how far those two concepts could be taken in the context of the ACT.

Those reservations, though, should not be viewed as any kind of black mark on the government's commitment to reconciliation. In the ACT we have a different kind of Aboriginal community to that in other parts of Australia. It is our duty to engineer reconciliation with that community, albeit as part of a national program. It is with that community that we have our primary obligation to engage and to reconcile. We will be developing strategies which are relevant for this community and not for communities in other parts of Australia.

Question resolved in the affirmative.

WASTE MANAGEMENT INFRASTRUCTURE
Ministerial Statement and Paper

MR SMYTH (Minister for Urban Services) (4.17): Mr Temporary Deputy Speaker, I ask for leave to make a ministerial statement concerning waste management infrastructure at Mitchell and Mugga Lane landfills.

Leave granted.

MR SMYTH: I am pleased to announce today the finalisation of tenders for the construction and operation of the new waste management infrastructure at Mitchell and Mugga Lane landfills. The construction of these facilities is a key action of the no waste by 2010 strategy.

The need to rationalise Canberra's waste handling systems by establishing waste sorting, recycling and transfer infrastructure to accommodate maximum recovery of resources was identified in the 1996 no waste strategy. Expressions of interest for the design, construction and operation of a facility at Mitchell and for the augmentation and operation of disposal at the Mugga Lane landfill were called for and closed in October 1999.

Select tenders for the Mitchell resource recovery and transfer station and the operation of the Mugga Lane station closed on 4 April 2000. The proposals were evaluated by a panel of officers from the Department of Treasury and Infrastructure, the ACT Government Solicitor's Office and the Department of Urban Services.

The evaluation panel agreed that a transfer of ownership to the government at the end of the contract would achieve the optimum outcome for the territory. This option provides for the territory to set the disposal fees, retain the income stream and take over ownership of the facility at the end of the contract period.

It was considered appropriate that the territory should maintain a level of control and flexibility over the facilities to allow management of variables in order to ensure that outcomes are consistent with the no waste strategy. Following evaluation of the tenders, negotiations with the preferred tenderer, Thiess Services Ltd, were held to ensure the best outcome was achieved for the territory. The contract negotiated with Thiess will substantially improve the territory's waste management infrastructure.

Included in the contract is the design and construction of a resource management centre at Mitchell, the design and construction of a domestic small vehicle transfer station and improved recycling facilities at Mugga Lane landfill and the operation of the Mitchell and Mugga Lane facilities.

The emphasis of the contract is on resource recovery and reuse rather than disposal to landfill. For example, financial incentives are available to the contractor to achieve recovery targets of 10,000 tonnes of recyclable, or 2,000 tonnes of reusable. materials, which will treble the current recovery/reuse levels of these materials. Recovery facilities for reusable items, consisting of a 2,000 square metre building and extensive hard standing, will be constructed at both sites. At Mugga Lane this will augment the current Revolve facilities. The facilities will greatly increase the capacity to recover reusable materials, by minimising damage to items when they are dropped off as well as during storage.

Drop-off facilities will be provided at both Mitchell and Mugga Lane for a wider range of recyclable materials, including car batteries, gas cylinders and paint. Bulk drop-off and processing areas where the public can unload under cover will be provided at both sites. A construction and demolition material recycling facility that will accept and process construction and demolition waste is proposed for Mugga Lane.

At Mugga Lane the facilities will remove the general public from the tip face, thereby limiting potential problems with illegal scavenging. Sealed roads and covered drop-off areas for materials will provide higher levels of service and safety for the community.

The establishment of the new Mitchell centre will replace the general waste disposal system at Belconnen landfill, with Mugga Lane becoming the principal landfill for Canberra. The opening of the Mitchell resource management centre will mean that most Canberrans will be within 15 kilometres of one of the ACT's two major resource management centres.

The West Belconnen landfill will continue to accept tyres, asbestos, sullage and hazardous waste but will cease acceptance of all general waste once the Mitchell centre is operational. The existing recycling facilities—including those for green-waste paper, containers and oil—will continue to operate at the Belconnen site.

It is expected that construction of the Mitchell facility will be completed by August 2001, while the Mugga Lane work should be completed by June. The design and construction of the proposed facilities at Mitchell and Mugga Lane are to be funded by Thiess, with payments for the facilities being included in the contract payments for operation of the facilities.

The new infrastructure will ultimately become the property of the ACT government. A similar arrangement was used successfully for the design, construction and operation of the materials recycling facility at Hume. The contracts with Thiess will cover a five-year operating term, with options for two two-year extensions. Annual operating costs are expected to be $958,000 at Mitchell and $1.6 million at Mugga Lane, based on predictions of the quantities of materials being handled. The finance arrangement is for nine years, as this gives better amortisation of the capital. The annual repayments for the infrastructure are included in the monthly contract payments for the operation of the facilities.

The services will be provided within the ACT Waste allocated budget of $3 million. The contractual arrangements with Thiess will provide the vital infrastructure needed to move the ACT another step closer to the goal of no waste to landfill by 2010.

I present the following paper:

> Waste Management Infrastructure at Mitchell and at Mugga Lane Landfill—Ministerial statement, 30 November 2000.

I move:

> That the Assembly takes note of the paper.

Debate (on motion by **Mr Hargreaves**) adjourned to the next sitting.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Report No 60

MR HIRD (4.24): I present the following report:

> Planning and Urban Services—Standing Committee—Report No 60—Tuggeranong Lakeshore Master Plan, dated 23 November 2000, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

I will be brief in speaking to this report, Mr Deputy Speaker. By the way, it is the sixtieth report of my committee. The report was initiated by this parliament at the urging of some Tuggeranong members—not only members of the community but also members for Brindabella—who moved successfully that the master plan be examined by my committee. As usual, the committee was delighted to welcome those Tuggeranong members to one of our public hearings, including you, Mr Deputy Speaker.

The examination of a master plan for large areas such as Lake Tuggeranong is a sensitive one for the local members of this place. After all, we are the ones who have detailed knowledge of local issues and local personalities and we have a feel for what our local constituents think is appropriate for our areas. That is why we note on the second page of our report, after the two recommendations, that all of us in this chamber might like to give some thought to the role we can play in the master planning process. Mr Deputy Speaker, we did not make a recommendation on that matter; we simply noted the possibility of involving the local members of this place more in the processes in respect of these master plans.

Turning to the recommendations, Mr Deputy Speaker, one is a process recommendation and one is a content recommendation. The process issue speaks for itself. The minister needs to clarify the master plan process so that everybody in our community is clear about the way it works. The content recommendation addresses each of the 28 development sites listed in the Tuggeranong lakeshore master plan.

The recommendations, I am delighted to say, were unanimous. We may have been helped a little by the recent statements of the Chief Minister about limiting future development in areas shown as urban open space on the Territory Plan. Mr Deputy Speaker, we hope that you and your Brindabella colleagues will be pleased with our look at the Tuggeranong lakeshore master plan.

In tabling this report I must note once again the workload which is imposed upon my committee, particularly the secretary. As you know, we had to delay the preparation of the Gungahlin Drive report because it became physically and intellectually impossible for our secretary to do it justice in the time available. The committee, together with its sole secretary, has been busy preparing reports on matters such as rural residential development, the Lake Tuggeranong master plan and various draft variations to the Territory Plan. I note that today the house has given another reference to my committee.

We do not shirk our responsibilities; we take them seriously. Members will be aware that the committee has had five matters on the daily program this week alone. Of course, if the committee were adequately resourced, we would certainly be able to finalise these matters much more quickly. Despite outstanding efforts by the dedicated professional staff of the committee staff, particularly the secretary, Mr Rod Power, it is impossible at times for the committee to meet deadlines. We do apologise for that.

If the secretariat is unable to fix these problems, I may have to ask the Assembly for assistance in obtaining adequate resources. I have raised this matter with my committee colleagues on numerous occasions and we are unanimous in our agreement on this issue. I will not say any more on that.

It was a delight for us to see that part of local government involvement which occurs in other places being exercised in regard to the Tuggeranong lakeshore master plan following the involvement of the local members of parliament in the due process, which was very effective. I commend the report on the Tuggeranong lakeshore master plan to the house.

MR CORBELL (4:29): Mr Deputy Speaker, this report is an important one. It is one which in some respects predates the more visible public debate about the role of urban open space in our community. When this master plan was first presented to the community—indeed, at the time that it was referred to the standing committee by this place—it identified a range of areas of urban open space for residential or commercial development.

It is interesting to note that in the context of the government's recent commitment, if you can believe it, to no longer investigate areas of urban space for residential development. If this government had been serious about that commitment for a period, it never would have allowed a master plan such as this one even to get to the stage of being released.

Mr Humphries: That was before the commitment was made.

MR CORBELL: I hear the Chief Minister say that it was before his announcement. Indeed, it was before his announcement, but I thought that this government had a longstanding commitment to urban open space and that the Chief Minister's announcement was simply a reiteration of policy. Clearly, Mr Deputy Speaker, the only reason the Chief Minister made his commitment a couple of Saturdays ago was that the political heat in relation to this issue was becoming too much.

I think that this report says a lot about the actions, rather than the words, of this government. It says a lot about the actions of this Chief Minister rather than his words. The actions were quite clear as far back as 2 September last year when this master plan was first released. It is quite clear that the government's agenda had always been to examine areas of urban open space for residential development. It has been only since the full scale of the government's agenda has become apparent that the government has backed down.

Mr Deputy Speaker, this document was referred to the Standing Committee on Planning and Urban Services because of community concern about the loss of urban open space which this document proposed. Even back then the government had a clear warning that the community was unhappy with the prospect of having urban open space used for other purposes.

I am pleased to join my colleagues on the committee, Mr Hird and Mr Rugendyke, in unanimously recommending that the areas of urban open space designated as such and subject to this master plan remain as urban open space. I only wish that this government had shown its strong commitment to urban open space issues back then, rather than having to be dragged kicking and screaming to it a couple of weeks ago.

Mr Deputy Speaker, the only other comment I would like to make is in relation to the comments by Mr Hird about resourcing, which is a matter of some concern to the Standing Committee on Planning and Urban Services. This committee has important statutory obligations under the land act. Also, by the nature of its portfolio coverage, it receives many other referrals of a local or municipal nature from the Assembly, as well as one or two that are self-referred by the committee.

This committee, unlike other committees in this place that have statutory obligations under certain acts, does not receive additional resourcing to cope with the workload that that obligation generates. I think that it is time for the Assembly to make some decisions about the effective resourcing of the committee system, in particular committees with statutory obligations such as the Planning and Urban Services Committee.

It is not good government to have draft variations for the Territory Plan, for example, take eight to 12 months to complete, and that has happened on occasion. That is not simply because of the complexity of the issues; it is also because of the workload that the committee faces. There has been some discussion in this place over the last couple of days about increasing the number of members of this place. Increasing the number of members certainly would improve the workability of the committee system. But that is only one part of the equation. The other part is the effective resourcing of the system.

I believe that we are underresourced at the moment. If we continue to expand the scope and role of the committee system, which we have done with the budget process which this Assembly has agreed to in terms of the draft budget work over the past six months or so, there will be more and more work for committees to do. We are already talking about resolving the issue of the staffing of committees in terms of the number of members available to do committee work.

It is time that we had a debate about properly resourcing the committee system as well. The current situation is untenable. It is leading to major stresses on the committee process and, I would have to say, is putting at risk the ability of committees to do the detailed examinations that they need to do, having to prioritise them in such a way that issues that such should be raised perhaps are not getting the full attention that they deserve.

Debate (on motion by **Mr Hargreaves**) adjourned to the next sitting.

JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE
Statement by Chairman

MR OSBORNE: I ask for leave to make a statement on behalf of the Standing Committee on Justice and Community Safety concerning a new inquiry.

Leave granted.

MR OSBORNE: Mr Speaker, I wish to inform the Assembly that on 25 September 2000 the Standing Committee on Justice and Community Safety resolved to inquire into and report to the Assembly on the legislative basis and operations of the Agents Board of the ACT, with particular reference to:

(1) how well the *Agents Act 1968* addresses contemporary community needs;
(2) the status of the ACT Government's review of the *Agents Act 1968*;
(3) the effectiveness of the Agents Board in conducting its responsibilities including how it compares with similar bodies in other Australian jurisdictions; and
(4) any other related matter.

Mr Speaker, this issue was raised by Mr Kaine and I understand that there is a government-initiated inquiry under way which seems to have been dragging on forever. It is the hope of the committee that we will have the benefit of that report when we conduct our inquiry. I commend this inquiry to the Assembly.

ELECTORAL AMENDMENT BILL 2000 (NO 2)
Detail Stage

Clause 1.

Debate resumed from 28 November 2000.

Clause 1 agreed to.

Remainder of bill, by leave, taken as a whole.

MS TUCKER (4.38): I ask for leave to move together amendments 1 to 4 circulated in my name.

Leave granted.

MS TUCKER: I move:

No 1—

Clauses 4 to 20, page 3, line 4, omit the clauses, substitute the following clauses:

" '**4 Special reports**

Section 10A is amended—

(a) by inserting after subsection (1) the following subsections:

'**(1A)** The commissioner must present to the Minister, before 30 June 2002, a report on the conduct of electronic voting and the electronic scrutiny of voting in the election held on 20 October 2001.

'**(1B)** Subsection (1A) and this subsection expire on 1 July 2002.'; and

(b) by inserting in subsection (2) 'or (1A)' after '(1)'.

'**5 Insertion**

After section 33 insert the following Division:

'***Division 3.3—Electoral Reference Committee***

'33A Definitions for div 3.3

In this Division:

appointed member—see section 33E (Appointed members of the committee).

committee means the Electoral Reference Committee.

general interests member—see paragraph 33E (d) (Appointed members of the committee).

MLA's member—see paragraph 33E (b) (Appointed members of the committee).

registered party member—see paragraph 33E (a) (Appointed members of the committee).

special needs voters member—see paragraph 33E (c) (Appointed members of the committee).

‘33B Establishment

The Electoral Reference Committee is established.

‘33C Functions

‘**(1)** The functions of the committee are—

(a) to give advice to the commissioner on the conduct of electronic voting and the electronic scrutiny of voting in an election; and

(b) if asked by the commissioner, to advise the commissioner on other issues about the conduct of elections; and

(c) to exercise any other function given to the committee under this Act or any other Territory law.

‘**(2)** The report under subsection 10 (1A) must include a report on the operation of, and advice given by, the committee.

‘**(3)** Subsection (2) and this subsection expire on 1 July 2002.

‘**33D Membership**

‘**(1)** The committee consists of—

(a) the commissioner; and

(b) the appointed members.

‘**(2)** The appointed members are to be appointed by the commissioner.

‘**33E Appointed members of the committee**

The commissioner must appoint as members—

(a) a person nominated by each registered party (a ***registered party member***); and

(b) a person nominated by each independent MLA to represent the MLA (an ***MLA’s member***); and

(c) at least 1 person who, in the commissioner’s opinion, represents people with special needs that impact adversely on their ability to vote (a ***special needs voters member***); and

(d) at least 1 person who, in the commissioner’s opinion, represents people with an interest in the conduct of elections (a ***general interests member***).

Note 1 A person may be reappointed to a position if the person is eligible for appointment to the position (see Interpretation Act 1967, par 28 (3) (c) and dict, def of **appoint**).

Note 2 The power to appoint a person to a position includes power to appoint a person to act in the position (see Interpretation Act 1967, s 28 (4)-(6) and s 28A).

‘**33F Term of appointment of appointed members**

‘**(1)** An appointed member is to be appointed for a term not longer than 3 years.

‘**(2)** The instrument appointing, or evidencing the appointment of, an appointed member must state the term for which the member is appointed.

‘**33G Ending of appointment to committee**

The commissioner must end the appointment of an appointed member if—

(a) for a registered party member or an MLA’s member—the person who nominated the appointed member asks the commissioner to end the appointment; and

(b) for a special needs voters member or a general interests member—the commissioner is satisfied that the person no longer represents the people concerned.

‘**33H Conditions of appointment generally**

An appointed member holds the position on the conditions not provided by this Act or another Territory law that are decided by the commissioner.

‘**33I Chairperson and deputy chairperson**

The members of the committee must, whenever necessary, elect—

(a) an appointed member to be chairperson; and

(b) another appointed member to be deputy chairperson.

‘**33J Time and place of meetings**

‘**(1)** Meetings of the committee are to be held at the times and places it decides in consultation with the commissioner.

‘**(2)** The commissioner—

(a) may at any time call a meeting of the committee; and

(b) must call a meeting if asked by at least 3 members.

‘**33K Procedures governing proceedings of committee**

‘**(1)** The chairperson presides at all meetings at which the chairperson is present.

‘**(2)** If the chairperson is absent, the deputy chairperson presides.

‘**(3)** If the chairperson and deputy chairperson are both absent, the member chosen by the members present presides.

‘**(4)** Business may be carried out at a meeting of the committee only if 4 members are present.

‘**(5)** The committee may conduct its proceedings (including its meetings) as it considers appropriate.

‘**(6)** The committee may hold meetings, or allow appointed members to take part in meetings, by telephone, close-circuit communication or another form of communication.

‘**(7)** A member who takes part in a meeting conducted under subsection (6) is taken to be present at the meeting.

‘**(8)** The committee must keep minutes of its meetings.’.”.

No 2—

Proposed new clause—

Page 2, line 28, after clause 22 insert the following new clause in the Bill:

"**22A Insertion**

After section 340, insert the following section:

'**340A Temporary modifications of Act**

'**(1)** This section applies for the conduct of electronic voting and the electronic scrutiny of voting in the election to be held on 20 October 2001.

'**(2)** This Act is modified as set out in Schedule 5.

'**(3)** This section and Schedule 5 expire on 30 September 2004.'.".

No 3—

Proposed new clause—

Page 10, line 7, after clause 23 insert the following new clause in the Bill:

"23A Insertion

After Schedule 4, insert the following Schedule:

'**SCHEDULE 5** (See s 340A (2))

TEMPORARY MODIFICATIONS

[5.1] Section 3—

Insert the following definitions:

approved computer program means the computer program approved under section 118A.

ballot paper includes an electronic ballot paper.

electronic voting—see subsection 120 (2).

[5.2] New subsections 114 (4) and (5)—

After subsection (3), insert the following subsections:

'(4) The ballot paper may be in electronic form.

'**(5)** The commissioner may approve changes to the electronic form of the ballot paper that are necessary to facilitate the display of the electronic form.

Example

The electronic form of a ballot paper may display columns of candidates using 2 rows.'.

[5.3] Paragraph 114 (4) (a)—

Omit from paragraph (4) (a) "printed or endorsed", substitute "contained".

[5.4] Subsections 114 (4) and (5)—

Renumber subsections (4) and (5) as (6) and (7).

[5.5] New Division 9.2A—

After section 118, insert the following Division:

'***Division 9.2A—Electronic voting devices and vote counting programs***

'**118A Approval of computer program for electronic voting and vote counting**

'**(1)** The commissioner may approve a computer program to allow electronic voting and perform steps in the scrutiny of votes in an election.

'**(2)** The commissioner may only approve a program if—

(a) the proper use of the program would give the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without computer assistance; and

(b) the program will allow an elector to show consecutive preferences starting at "1"; and

(c) the program gives an elector an opportunity to correct any mistakes before processing the elector's vote; and

(d) the program will allow an elector to make an informal vote showing no preferences for any candidate; and

(e) the program will not allow a person to find out how a particular elector cast his or her vote; and

(f) the program is designed to pause while the commissioner makes a determination by lot required by Schedule 4; and

(g) the program can produce indicative distributions of preferences at any time after the close of the poll and before the declaration of the poll.

'(3) The commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.

'**(4)** Without limiting subsection (3), the commissioner may approve a process—

(a) for entering preferences shown on paper ballots into the approved computer program; and

(b) for counting preferences using the program to work out—

(i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and

(ii) the number of informal ballot papers for each electorate.

'**118B Security of electronic voting devices and related material**

'**(1)** The commissioner must take steps to ensure that electronic devices and computer programs used or intended to be used for or in connection with electronic voting are kept secure from interference at all times.

'**(2)** The commissioner must keep backup copies of electronic data produced at a polling place or scrutiny centre until whichever of the following happens last:

(a) the beginning of the pre-election period for the next election;

(b) the documents are no longer required by the commissioner, another member of the electoral commission or a member of the staff of the commission for exercising a function under this Act.'.

[5.6] Section 120—

Omit "The commissioner", substitute "**(1)** The commissioner".

[5.7] New subsections 120 (2) and (3)—

After subsection (1), insert the following subsections:

'**(2)** The commissioner may make arrangements at a polling place for electors to vote using an electronic ballot paper (***electronic voting***).

'**(3)** For subsection (2), the commissioner may approve electronic devices for use by electors for electronic voting at a polling place.'.

[5.8] New subsection 131 (3)—

After subsection (2), insert the following subsection:

'**(3)** If there is electronic voting at a polling place, an elector may vote using a paper ballot paper or electronic voting.'.

[5.9] Paragraph 134 (c)—

Insert 'if the person has voted using a paper ballot paper—' before 'fold'.

[5.10] New subsection 157 (4)—

After subsection (3), insert the following subsection:

'**(4)** This section does not apply in relation to an elector who votes electronically.'.

[5.11] Subsection 178 (3)—

Omit "and documents", substitute ", documents and data".

[5.12] Paragraph 178 (3) (e)—

Renumber paragraph (3) (e) as (3) (f).

[5.13] New paragraph 178 (3) (e)—

After paragraph (3) (d), insert the following paragraph:

'(e) electronic ballot papers;'.

[5.14] Subsections 182 (1) to (6)—

Renumber subsections (1) to (6) as (2) to (7).

[5.15] New subsection 182 (1)—

Before subsection (1), insert the following subsection:

'**(1)** This section applies only to paper ballot papers.'.

[5.16] Subsection 182 (5)—

Omit '(3)', substitute '(4)'.

[5.17] Subsection 182 (6)—

Omit '(5)', substitute '(6)'.

[5.18] New subsection 182 (8)—

After subsection (6), insert the following subsection:

'**(8)** The OIC may arrange for preferences marked on paper ballot papers to be entered into the approved computer program.'.

[5.19] New section 183A—

After section 183, insert the following section:

'**183A First count—electronic ballot papers**

As soon as practicable after the close of the poll for an election, the OIC for a scrutiny centre must arrange for preferences from electronic voting to be entered into the approved computer program and for the electronic counting of the votes using the program.'.

[5.20] Subsection 184 (1)—

Omit 'The commissioner', substitute "If preferences marked on paper ballot papers have not been entered on the approved computer program under subsection 182 (8), the commissioner".

[5.21] Paragraph 184 (1) (a)—

Omit '(4) (d)', substitute '(5) (d)'.

[5.22] Paragraph 184 (1) (a)—

Omit '(3) and (4)', substitute '(4) and (5)'.

[5.23] Subsection 184 (2)—

Renumber subsection (2) as (3).

[5.24] New subsection 184 (2)—

After subsection (1), insert the following subsection:

'**(2)** The commissioner must, using the approved computer program, ascertain from the result of the first scrutiny of electronic ballot papers and any paper ballot papers from which preferences have been entered on the computer program under subsection 182 (8)—

(a) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and

(b) the number of informal ballot papers for each electorate.'.

[5.25] Paragraph 185 (1) (a)—

Insert 'and paragraph 184 (2) (a)' after 'subparagraph 184 (1) (b) (i)'.

[5.26] New section 187A—

After section 187, insert the following section:

'**187A Recount of electronic scrutiny of ballot papers**

'**(1)** This section sets out the alternative ways in which a recount of the electronic scrutiny of ballot papers may be conducted.

'**(2)** The recount may be conducted by recounting data from electronic ballot papers kept on a backup copy of electronic data produced at a polling place or scrutiny centre.

'**(3)** If an approved computer program is used to find out the result of a scrutiny, the recount may be conducted—

(a) by rerunning the program; or

(b) by reloading the data into a different copy of the program and running the program.

'**(4)** If practicable, the recount may be conducted—

(a) by re-examining the accuracy of any preference data entered into the computer program from paper ballot papers; or

(b) by conducting—

(i) a partial or full manual scrutiny of paper ballot papers from which preference data has been entered into the computer program; or

(ii) a combination of manual scrutiny of those paper ballot papers and a computerised scrutiny of electronic ballot papers.'.

[5.27] Paragraph 256 (2) (e)—

Renumber paragraph (2) (e) as (2) (f).

[5.28] New paragraph 256 (2) (e)—

After paragraph (2) (d), insert the following paragraph:

'(e) any matter connected with electronic voting;'.

[5.29] Paragraph 269 (1) (b)—

Renumber paragraph (b) as (c).

[5.30] New paragraph 269 (1) (b)—

After paragraph (1) (a), insert the following paragraph:

'(b) an inquiry into the accuracy of approved computer programs used in electronic voting and the electronic scrutiny of votes;'.

[5.31] New Division 17.3A—

After section 306 insert the following Division:

'***Division 17.3A—Electronic voting offences***

'**306A Interfering with electronic voting devices etc**

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for or in connection with electronic voting.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

‘**306B Interfering with electronic counting devices etc**

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for counting votes electronically.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

[5.32] Section 333—

Omit “The electoral”, substitute “**(1)** The electoral”.

[5.33] New subsection 333 (2)—

After subsection (1), insert the following subsection:

‘**(2)** A person may, on payment of the determined fee, obtain copies of the statistics in paper or electronic form.’.”.

No 4—

Clauses 26 to 29, page 11, line 5, omit the clauses, substitute the following clauses.

“26 Insertion

After section 19, insert the following section:

‘**19A Temporary modifications of Act**

‘**(1)** This section applies if a referendum is held on 20 October 2001.

‘**(2)** This Act is modified as set out in Schedule 2.

‘**(3)** This section and Schedule 2 expire on 30 September 2004.’.

27 Further amendments

The following provisions are amended by omitting ‘the Schedule’ and substituting ‘Schedule 1’:

Paragraphs 12 (3) (f), 14 (3) (d), 15 (3) (c), 16 (3) (b) and 17 (3) (c) and subsection 19 (3).

28 Schedule

The heading to the Schedule is amended by omitting ‘**SCHEDULE**’ and substituting ‘**SCHEDULE 1**’.

29 Insertion

After the Schedule, insert the following Schedule:

‘**SCHEDULE 2** (See s 19A (2))

TEMPORARY MODIFICATIONS

[2.1] Subsection 3 (1)—

Insert the following definition:

printing, for a referendum ballot paper, includes displaying an electronic referendum ballot paper.”.

[2.2] Subsection 3 (1) (definition of *referendum ballot paper*)—

Add at the end of the definition of ***referendum ballot paper*** ", and includes an electronic referendum ballot paper".

[2.3] New subsection 11 (5)—

After subsection (4), insert the following subsection:

'**(5)** For this section, a referendum ballot paper may be in electronic form.'.

[2.4] Paragraph 12 (3) (b)—

Omit 'printed'.

[2.5] Paragraph 12 (3) (c)—

Omit 'printed or endorsed', substitute 'contained'.

[2.6] Paragraph 14 (3) (b)—

Omit the words from 'paragraphs' to 'Electoral Act', substitute 'paragraphs 118A (4) (b), 180 (2) (b) and (c) and (3) (a), subparagraphs 182 (4) (c) (ii) and (5) (a) (i) and 184 (1) (b) (i) and subsection 184 (2) of the Electoral Act'.".

I will speak to all of my amendments together because they are interlinked. My intention with the amendments is to insert some form of sunset clause into the bill so that electronic voting and vote counting can be used only in the October 2001 election. I am concerned that the bill as it now stands inserts provisions allowing electronic voting for all future elections. I think it is premature to do so as we do not even know how it will work at the next election.

Having a sunset clause in the bill will force the Assembly to review the use of electronic voting at the next election before we make it a permanent feature of ACT elections, otherwise we can just go back to the tried and tested paper ballot that is currently provided for in the Electoral Act, depending on the way that the electronic voting system performs in the 2001 election.

It would be up to the new government, if it wanted, to propose further amendments to the Electoral Act to provide for electronic voting at future elections. That was my intent, but the parliamentary drafters found that inserting a sunset clause in the bill as currently structured was not as easy as it sounded because the bill contained so many amendments to various parts of the Electoral Act. They have had virtually to restructure the bill by moving all the new provisions relating to electronic voting into a separate schedule of the Electoral Act and putting an expiry date on that schedule.

The expiry date chosen is 30 September 2004, which is just before the election scheduled for October 2004. The reason for this is that it allows electronic votes to be used for any recount of votes after the 2001 election that is necessary to fill casual vacancies in the next term of the Assembly. The bill also amends the Referendum (Machinery Provisions) Act to allow electronic voting in referendums, so the drafters have had to do a similar restructuring exercise with those amendments so that they will also sunset on the same date.

A further amendment I am proposing to the bill is the establishment by the Electoral Commissioner of an electoral reference committee to provide advice to the commissioner on the implementation of electronic voting. This committee would comprise nominees from each political party registered in the ACT and nominees of each Independent MLA. The commissioner could also appoint to the committee persons who represent the interests of people with special needs that impact adversely on their ability to vote; for example, vision-impaired people and persons from groups which have a general interest in the conduct of elections, such as the Proportional Representation Society and academic institutions.

The committee would have advisory functions only rather than any decision-making power. The committee is intended to mirror the Electoral Commissioner's own proposal for a reference group. By putting this amendment up, I am not suggesting that the commissioner could not be trusted to do what he says he will do. What I am doing is asking the Assembly to give its endorsement to what the commissioner is proposing and to give the reference group a formal role in this process.

I just think that this Assembly should be extra careful in dealing with proposals to change our voting system. Any proposed changes to our voting system must be fair to all stakeholders and the process of developing these changes must be totally above board and accountable. The electoral reference committee would be in a sense just an extension of the scrutineering process that occurs during election times and keeps the Electoral Commissioner, whoever that might be at the time, accountable to the public.

A further and related amendment I am proposing is that the Electoral Commissioner must undertake a review of the conduct of electronic voting in the October 2001 election. Under the current powers, he has to provide special reports to the minister and the Assembly. This review should be completed by the middle of 2002. Again, I am sure that the commissioner was thinking of doing such a review anyway, but I would like the Assembly to direct him formally to undertake such a review to demonstrate to the community the significance that we attach to making sure that our voting system continues to be fair and accountable. Under my amendment, the electoral reference committee would have a formal input to this review.

As I said in the debate at the in-principle stage, I think that the Assembly should be very cautious about fiddling with our electoral system in case we get it wrong. I am prepared to accept a trial of electronic voting, but I do not think that we should be writing it into the Electoral Act as a permanent amendment just yet. Let us wait and see how this trial goes.

Debate (on motion by **Mr Smyth**) adjourned to the next sitting.

PSYCHOLOGISTS AMENDMENT BILL 2000

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

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (4.44): Mr Speaker, the Minister for Health and Community Care introduced this bill on 25 May. The bill deletes the existing

definition of "practise psychology" and inserts a new definition that states that a person is taken to practise psychology if the person practises psychology on their own account or the person practises psychology as an officer or employee of someone else.

This new definition means that government employees who were not previously taken to practise psychology will now be included. These employees will be subject to all provisions of the act, including the requirement to be registered and pay fees for that registration. Only those persons holding prescribed qualifications may be registered. I note that the scrutiny of bills committee did not make any adverse comment on the bill.

The Labor Party does not object to the amendment. It is essential that professionals operating in such sensitive areas are properly qualified and subject to regulation by their peers. However, members are reminded that this is the first time that the act has applied to government employees. The government employees deliver psychology services in a range of fields. For example, they may be teachers who act as school counsellors, Centrelink employees, court counsellors or hospital employees.

For a limited period after the act was introduced, private sector psychologists were able to obtain registration on the basis of their experience only or on the basis of a combination of experience and academic qualifications. The Labor Party believes that the same opportunity should be extended to government employees, some of whom may find it difficult to obtain registration because they cannot immediately meet the board's registration requirements.

I believe that it is only fair to give them a transitional period similar to that extended to their private sector colleagues when the act was initiated to continue practising while they sort out their status with the registration board. I honestly cannot understand why the government did not include such a provision in the bill, instead of attempting to discriminate against them, vis-a-vis the situation that the private sector psychologists found themselves in when the act was introduced.

Some of them, although they are competent practitioners in all other respects, may need additional time in which to upgrade their qualifications to meet current standards. I have circulated an amendment to this bill to achieve the same and will be moving it in due course. I hope that other members feel the same in relation to this issue and will support the amendment to ensure fairness and equity to the government employees caught up by the bill who cannot immediately satisfy the registration requirements.

MS TUCKER (4.47): The Greens will be supporting this bill. We will also be supporting the amendment to be put to the bill by Mr Stanhope. We have consistently argued for consumer protection. The role of the Psychologists Board in the registration of psychologists and control of the practice does provide that protection.

Evidently, after this act was introduced in 1994 public sector employees were found not to be subject to the provisions of the act. The ACT Greens support the government's intention to bring these employees under the same regime. The 1994 act, however, included transitional provisions in order to allow people employed at that time to adjust to the new circumstances. Whilst public sector employees may have been aware of the government's intention, it was inevitable that many of those public sector employees

brought into the system under this bill would not have gone on with gaining the proper qualifications in the meantime.

In the interests of natural justice, these employees now deserve authentic transitional arrangements, as were afforded to private sector employees when the act was introduced in 1994; so I will be supporting Mr Stanhope's amendment when he puts it.

MR MOORE (Minister for Health, Housing and Community Care) (4.48), in reply: Mr Speaker, I appreciate the support in principle of members for the bill. I will take the opportunity to make some general comments about the proposed amendment which Mr Stanhope kindly circulated earlier and gave us an opportunity to look at.

Mr Speaker, I think that there is a simple and fundamental choice for people to make here. This bill applies largely to school counsellors who wish to be known as psychologists. Do we want our children to be dealt with by people who identify themselves as psychologists or do we want the counsellors to continue in their role as counsellors but not be recognised as psychologists if they are not qualified as such?

This matter is about the interpretation of the act. The original intention of the act in 1994 was to include public sector psychologists. Indeed, many public sector psychologists registered at the time because they understood and believed in the act which would have them register as psychologists. A small number of counsellors in our schools determined that, instead of gaining the extra qualifications within the adjustment period to be registered as a psychologist, which was grandfathered, they would follow a legal route.

Mr Speaker, it seems to me that there has been plenty of opportunity for people to upgrade their qualifications and that it is not necessary to go down the path that Mr Stanhope is prepared to follow. I understand on the surface of it how he has come to that conclusion, but I think that the most important thing to understand is that we are trying to ensure that psychologists employed in the public sector are subject to the provisions of the Psychologists Act as originally intended.

The reason we put registration in place is to make sure that people who are using psychologists understand that those people are appropriately trained, recognised and qualified. We need to do that now. The intention of this amendment is to clarify that and make it absolutely clear that people who are not qualified ought not to be recognised as psychologists. That is the intention of the amending bill and that is what we should retain.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR STANHOPE (Leader of the Opposition) (4.51): I move:

That the following new clause be inserted in the Bill: Page 2, line 14:

"6 Addition

At the end of the Act the following Part is added:

'**PART 7—TRANSITIONAL**

'**57 Definitions for pt 7**

In this Part:

commencement day means the day this Part comes into operation.

government psychology employee means a person who was, immediately before the commencement day, employed by the Territory, the Commonwealth or a public authority of the Territory or the Commonwealth to provide psychology services.

'**58 Application of various provisions**

'**(1)** Sections 42, 44 and 45 do not apply to a government psychology employee until the earlier of—

(a) the day the employee is registered; or

(b) the end of 12 months after the commencement day.

'**(2)** If a government psychology employee applies for registration as a psychologist within 12 months after the commencement day, sections 42, 44 and 45 do not apply to the employee until—

(a) the board registers the employee; or

(b) if the board refuses to register the employee—30 days after the day the employee is notified under section 49 of the decision of the board to refuse the employee registration.

'**59 Registration**

'**(1)** This section applies to a government psychology employee who has provided psychology services for a period of 4 years, or for periods totalling 4 years, during the 10 years immediately before the commencement day.

'**(2)** If—

(a) a government psychology employee mentioned in subsection (1) applies for registration as a psychologist; but

(b) the employee would not be entitled to be registered under section 8;

the board may register the person as a psychologist under this Act if the board is satisfied the person is otherwise competent to practise psychology.

'**(3)** The board may impose any conditions it considers appropriate on the registration of a person under subsection (2).

‘**60 Temporary registration**

‘**(1)** If—

(a) a person who was a government psychology employee immediately before the commencement day—

(i) applies for temporary registration as a psychologist; and

(ii) gives the board a written undertaking that he or she will undertake education or training to obtain the qualifications mentioned in subparagraph 8 (1) (a) (i) or (b) (i); and

(b) the board is satisfied the person is competent to practise psychology;

the board may temporarily register the person as a psychologist.

‘**(2)** Temporary registration of a person as a psychologist under this section remains in effect until—

(a) the person is given written notice that the board has—

(i) registered the person under section 8; or

(ii) refused an application by the person for registration under section 8; or

(iii) cancelled the person’s registration; or

(b) the end of 3 years beginning on the commencement day.

‘**(3)** The board may cancel a person’s registration under this section for any reason it considers appropriate.

‘**(4)** If the board cancels a person’s registration under subsection (3), it must immediately give the person notice of the cancellation.

‘**(5)** A person who holds temporary registration under this section is taken to be a registered psychologist only for the person’s employment as a government psychology employee.

‘**61 Review of decisions under pt 7**

Application may be made to the administrative appeals tribunal for review of a decision of the board—

(a) under subsection 59 (2) to refuse to register a person; or

(b) under subsection 59 (3) to impose conditions on the registration of a person; or

(c) under subsection 60 (1) to refuse to temporarily register a person; or

(d) under subsection 60 (3) to cancel the registration of a person.

‘**62 Notification of decisions**

‘**(1)** If the board makes a decision mentioned in section 61, it must give written notice of the decision to the person affected by the decision.

‘**(2)** A notice under subsection (1) must be in accordance with the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

‘**63 Expiry of pt 7**

This Part expires 3 years after the commencement day.’.”.

As the minister indicated, my amendment was circulated to all government and crossbench members earlier this month, so I will just make some general comments without going into great detail.

As I indicated in my earlier remarks, current government employees practising psychology will be permitted under the amendment to continue practising for a period of only 12 months after the commencement date of the bill without being registered. If they wish to continue practising after that time, they must apply for registrations within the 12 months.

The board has the power to grant full registration if an employee meets the board's requirements. However, if the employee does not meet the board's requirements in full, registration may still be granted to the employee if he or she has provided psychology services for a period of four years in the previous 10 years and is otherwise competent to provide those services. The board could make resignation under this provision conditional. I am advised by the drafter that such a condition could be that registration lapses if the person leaves government employment, for example.

If a government employee cannot be registered under these two conditions, there is a third option: the board may grant temporary registration for a period not exceeding three years, during which the employee must obtain such additional qualification as the board requires. That should be achievable by the employee as they will only require an upgrade of existing qualifications. The amendment also includes an appeal provision against decisions of the board under this part.

I conclude by saying that, as I indicated in my remarks earlier, the amendment is designed simply to achieve parity between the position of psychologists employed in government service and a position which applied to private sector psychologists at the time the act was originally introduced. It seems to me that there is no cogent reason for discriminating between the two.

MR MOORE (Minister for Health, Housing and Community Care) (4.53): In fact, that is the very reason this piece of legislation is in place and why the amendment ought not to be accepted. We ought not to discriminate in favour of these people and allow them to be psychologists when they are not qualified as psychologists. We ought not to open up the floodgates to allow these people to be registered as psychologists.

Mr Speaker, I had some notes prepared for me about this matter and I think it is worth identifying some of the most important points. The amendment proposed by Mr Stanhope to include transitional provisions is not supported because the bill exists simply to correct an oversight in the original drafting of the act in 1994 which was identified in the context of an impending inquiry.

Legal advice provided by the ACT Government Solicitor indicated that the board may not have jurisdiction in this matter because of the provisions of paragraphs 3(2)(a) and 3(2)(b) of the Psychologists Act, which appeared to exempt psychologists employed in the public sector from the provisions of the act. That is only one reading of it. By the way, most public psychologists had not read it that way. Most public psychologists had registered as psychologists.

The amendment bill was not designed to give the board additional control over a group previously exempt from the legislation. It was to ensure that the psychologists employed in the public sector were subject to the provisions of the Psychologists Act, as originally intended when it commenced in June 1995 with the appropriate possibilities and the appropriate transition periods. In this regard, the present exclusion of psychologists employed in the public sector under subsection 3(2) is seen as an inadvertent omission.

The amendment means no change to public sector psychologists as it has always been understood by the Psychologists Board of the ACT that the present act applies to all psychologists. The board has never provided advice to the contrary to public sector psychologists, which is evidenced by the large number who are already registered. Consequently, any public sector psychologist who is practising as a psychologists should already be registered with the board.

The original transitional clause in the Psychologists Act made it very easy for those who were not eligible for registration under the substantive provisions of the act to become registered. An opportunity for public sector psychologists to register under the transitional provisions of the act has been provided and many of them have utilised that provision; so this amendment is unnecessary and inappropriate.

The inclusion of Mr Stanhope's transitional provisions would allow persons not just in public sector positions designated as psychologists to seek registration. It goes well beyond that. Those people are or should be already registered. It allows persons who provide supposed psychology services, such as counsellors, career counsellors and human resource people, to seek registration under these provisions. This amendment opens up registration significantly. According to my advice, it is not restricted to the public sector.

The proposed transitional provisions would open up the prospect of registration to a large number of people whose qualifications and experience in psychology are well below acceptable contemporary standards. Members should ask themselves whether they want to do that. Do we want people who wish to go to a psychologist to go to somebody who is not up to contemporary standards or do we want those people to know that they are going to a psychologist? This provision does not take away somebody's career; it does not take away somebody's job. For example, somebody who is working in a school at the moment as a school counsellor will continue to be able to work as a school counsellor. I think that this is a very important issue.

Statutory regulation exists in the interest of the protection of the public. The inclusion of the proposed transitional provisions appears not to assist the board administering the act in a manner in which it can be confident of offering the public such protection. It is important for the Assembly to reject this amendment because it limits the amount of protection for the public.

MR STEFANIAK (Minister for Education and Minister Assisting the Attorney-General) (4.58): Mr Speaker, I wish to speak on the issue of school counsellors. Mr Moore's amendment to the act of 1994, which deletes subsection 3(2) and inserts a new section 3A, will extend statutory regulation to psychologists working in the public sector. Currently, only private psychologists are regulated under the act.

The impact of the amendment on the ACT government school system is that school counsellors who carry out work which is acknowledged as work usually performed by registered psychologists, such as psychometric testing, will need to be registered with the ACT Psychologists Board in order to carry out that work. The proposed amendment will enhance recognition of the professional nature of the work performed by our school counsellors.

All school counsellors working in government schools in the ACT have qualifications in the discipline of psychology and the great majority are either registered or eligible for registration. Currently, 40 of our school counsellors are registered, a further 13 are eligible for registration with the board and only 10 would not be eligible for registration. As Mr Moore points out, the act is an act of 1994 and there has been a very lengthy transition period for people to register or seek eligibility for registration. I think the effect of Mr Stanhope's amendment would merely be to further extend what has been a very lengthy period.

It is important to note that the work performed by school counsellors is mainly in the area of pastoral care and student welfare. Psychometric testing and other duties that can only be performed by a person registered with the board will continue to be met by those counsellors who are qualified to do so. Indeed, most of our school counsellors are.

There have been proposals by the AEU and, I think, the CPSU as well as Mr Stanhope to insert transitional provisions into the act. Those provisions would give those few school counsellors who are not eligible for recognition time to upgrade their qualifications and thus become eligible for recognition. The proposals are premised on the view that school counsellors perform the same sort of work as that performed by registered psychologists and that registration will be mandatory. Mr Speaker, that is not the case and it is simply not necessary to insert transitional provisions into the act.

It is not mandatory for our school counsellors to be registered in order to perform their jobs. School counsellors in ACT government schools have provided invaluable contributions to the system over the years and will continue to do so. Of course, I would encourage those school counsellors who wish to seek registration to do so, noting that only 10 are not eligible at present, but neither their jobs nor the service they provide to students will be compromised in any way if they choose not to.

The amendments proposed to the act extending the registration requirements to public sector employees who provide psychological services constitute a step in the right direction by enhancing the standards of service provided in the public system. That is the important issue. I think that the bill is fine as it stands and Mr Stanhope's amendment really is unnecessary.

MR RUGENDYKE (4.59): Mr Speaker, on the surface, the amendment appears to be fair. I think that it is unfortunate that the proponents of the amendment failed to mention that there has been a transition period, that it has been going on for some time, and that the purpose of the bill is to correct the situation.

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.

MR RUGENDYKE: I think that it is unfortunate that the lobbyists for Mr Stanhope's amendment failed to mention the full story; but, having said that, I have given Mr Stanhope a commitment to support his amendment and that is what I will do.

MS TUCKER (5.02): I wish to adjourn the debate at this point because I was not able to get a briefing on this matter from the minister and I am not sure now of my position. I would like the opportunity to have more time to do so, so I move:

> That the debate be adjourned.

Question resolved in the affirmative.

Debate adjourned to the next sitting.

COMMISSIONER FOR THE ENVIRONMENT AMENDMENT BILL 2000

Debate resumed from 2 March 2000, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

MR CORBELL (5:03): Mr Speaker, it is interesting to note that this bill was tabled in the early months of this year, and it is only on the second last sitting week of the year that we have come to deal with what is on the face of it a relatively minor piece of legislation—minor in the changes it will make but certainly important in the context of ensuring that the territory has effective state of the environment reporting.

It was of course an initiative of the previous Labor government, under the then minister for the environment, Bill Wood, that established the office of the Commissioner for the Environment, and it was the previous Labor government, again under Minister Wood, who appointed the first and still the only commissioner, Dr Joe Baker. Dr Baker is well respected on all sides of this place for his exemplary work and his considerable experience in preparing state of the environment reports for the territory.

He is respected not only in that role he has undertaken in previous years but also in the role of preparing the whole-of-region reports that. It is the confluence of the reporting at a whole-of-region level compared with territory level which has led to this proposed change, along with the fact that the change to the ACT's electoral date means that there must be a change in when the *State of the Environment Report* is presented.

It is only commonsense to ensure that the *State of the Environment Report* is prepared well before an ACT election, which is held every three years in October. The Labor Party welcomes the proposal to change the reporting date to allow all parties in this place to properly scrutinise the *State of the Environment Report* that will be brought out by the

commissioner prior to subsequent ACT elections, and we will be supporting this legislation.

MS TUCKER (5:06): This bill is about the timing of ACT state of the environment reports. When the Commissioner for the Environment Act was established, there was an obligation on the commissioner to produce annual state of the environment reports. This requirement was amended in 1997 so that reports would be produced only every three years. The release of the report was synchronised with a fixed election date, in that reports had to be completed by 31 March in each pre-election year. The government would then have time to release its response to the report and start to take action to address any identified problems before the election due the following February, when their efforts to protect the environment could be judged by voters. However, with the change to an October election date—for the moment anyway, until someone attempts to bring on an early election—state of the environment reporting has become out of synchronisation with the election date.

A further complication is that the ACT is now participating in the development of regional state of the environment reports, which for New South Wales local governments have a reporting date in November every four years, including this year. This obviously does not tie in with our electoral cycle. The government has therefore proposed to give the commissioner some discretion in the timing of the *State of the Environment Report* so that the completion of ACT and regional reports can be better aligned.

I can support this approach in principle, but I am not sure that the desire to coordinate these reports will be met in practice. Looking at the years in which ACT and regional reports would fall due, 2004 would be a real problem, as the regional report would fall due one month after an ACT election, which is quite unacceptable. What will happen in 2008 is anyone's guess. Perhaps by then the ACT will have four-year terms to match New South Wales, but our election day and year may still not be aligned with New South Wales local government elections.

The desire to combine ACT and regional reports may therefore turn out to be false economy. The growth of electronic collection and presentation of environmental data via the Internet may also make it much easier to produce separate ACT and regional reports than currently. I am prepared to give the commissioner the benefit of the doubt and support this bill in principle, but the Greens have a big problem with the possibility that, in the drive to align the New South Wales and ACT reports, ACT state of the environment reports will get completely out of synchronisation with the ACT electoral cycle.

If we totally align with the four-year cycle in New South Wales, there is even the possibility that no ACT report will be produced within a three-year ACT election cycle. The election cycle and the consequent election campaigns provide voters of the ACT with the appropriate opportunity to appraise the performance of the government, but this appraisal can occur effectively only if comprehensive information is available to the public on performance of the government.

ACT state of the environment reports provide such information in the environmental arena, and it is important that these reports come out within a reasonable period before an election. While wanting to give flexibility in setting reporting dates for the

commissioner, I do not want to break the nexus between these reports and ACT elections. I will be moving amendments to this bill to direct the minister to set reporting dates that ensure that these fundamental reports on the state of the ACT's environment are presented at least once in every term of the Assembly. The last time this bill was nearly debated, the government said it would support these amendments. I hope that they maintain this support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MS TUCKER (5.10): I ask for leave to move amendments Nos 1 to 3 circulated in my name together.

Leave granted.

MS TUCKER: I move:

No 1—
Clause 4, page 2, line 33, proposed new paragraph 19 (5) (b), omit the paragraph, substitute the following paragraph:

"(b) a reporting day for that period that—

(i) must be at least 3 and not more than 6 months after the end of the reporting period; and

(ii) must not be within 6 months before or after an ordinary election under the *Electoral Act 1992*.".

No 2—

Clause 4, page 2, line 35, after proposed new subsection 19 (5), insert the following subsection:

" '**(5A)** When making a determination under subsection (5), the Minister must ensure that it is possible for at least 1 state of the environment report to be presented under section 22 in the period between one ordinary election under the *Electoral Act 1992* and the next such election.".

No 3—

Clause 5, page 3, line 15, proposed new section 22, omit the section, substitute the following section:

" '**22 Minister to table reports and recommendations**

'**(1)** After the Minister receives a recommendation under subsection 19 (4) or a report under section 21, the Minister must present the recommendation or report to the Legislative Assembly within 15 sitting days.

'**(2)** After receiving a state of the environment report under section 19, the Minister must present the report to the Legislative Assembly before the end of the earlier of the following:

(a) the fifteenth sitting day after receiving the report;

(b) the last sitting day before the next ordinary election under the *Electoral Act 1992*.'.".

My first amendment specifies that the reporting for the *State of the Environment Report* must not be within six months of an ordinary election. Of course, this amendment assumes that we will still have fixed election dates, which a few weeks ago was looking pretty shaky. It seems, however, that a commitment to democratic principles has prevailed and that we can safely assume that fixed election dates will be a central feature of our electoral system.

I believe there needs to be a break between the release of the report and an election, to give time for the government to respond and for the public to digest the information. If the report is released too close to an election, it could be buried under all the other political material put around at that time and its value diminished. By the same token, there is little to be gained in reporting immediately after an election, as such a report would offer no useful information to the public on the actions of the new government, and the new government may be too preoccupied with its own establishment to have the time to develop the detailed response that such a report deserves.

My second amendment ensures that at least one state of the environment report is prepared during the term of an Assembly. As I argued at the in-principle stage, it is vital to our democratic process that such a report be produced within each term.

My third amendment makes clear that the minister must present the commissioner's report to the Assembly by the end of the term. At present, the minister has 15 sitting days after receiving the report from the commissioner in which to present the report to the Assembly. Conceivably, however, there may not be 15 scheduled sitting days before the next election. One would not want to presume that a minister for the environment would ever be sneaky, but without this amendment it may be possible for the minister not to present that report to the Assembly until after the election, which would be a corruption of the process.

MR CORBELL (5.12): The Labor Party has considered the amendments proposed by Ms Tucker. We have also considered the bill as put forward on the advice of the commissioner. It is my understanding that the commissioner's preferred approach is the one outlined in the government's amendment bill. For that reason, the Labor Party is not prepared to support Ms Tucker's amendments. I take on board her concerns. However, I am confident that the commissioner will exercise the appropriate discretion in relation to reporting to the Assembly.

As the government's bill does represent the commissioner's preferred view, as I understand it, the Labor Party will be supporting the bill as it stands and not Ms Tucker's amendments.

MR SMYTH (Minister for Urban Services) (5.13): When they were raised earlier, I indicated that the government did not have any objections to Ms Tucker's views and her amendments. Since then I have spoken with the commissioner and, as Mr Corbell has said, the commissioner sees this bill as a reasonable way in which to go forward. If it proves to be unworkable in the future, then the option to come back and change it is always there, but I think it is workable and will give the Assembly the opportunity to scrutinise the report of the commissioner for the environment before each election.

It is important that we get this right. The alignment with councils in New South Wales is very important. What we need to do today is pass the government's bill, and if it does not prove to be adequate then of course we can always amend it. The government will not support Ms Tucker's amendments and will go with its own bill instead.

Amendments negatived.

Bill, as a whole, agreed to.

Bill agreed to.

UTILITIES BILL 2000

[COGNATE BILLS:
UTILITIES (CONSEQUENTIAL PROVISIONS) BILL 2000
GAS SAFETY BILL 2000
WATER AND SEWERAGE BILL 2000
ELECTRICITY AMENDMENT BILL 2000]

Debate resumed from 17 February 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this bill concurrently with the Utilities (Consequential Provisions) Bill 2000, the Gas Safety Bill 2000, the Water and Sewerage Bill 2000 and the Electricity 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 orders of the day 5 to 8.

MR CORBELL (5.15): This package of utilities bills comprises important bills in providing an effective regulatory regime under the new competitive framework for the delivery of gas, electricity, water and sewerage services in the ACT. The issue of better utilities legislation was originally flagged by this government when it attempted to sell Actew as a whole and completely privatise that organisation.

At the time, the Labor Party raised concern about the linking of the utilities legislation with any debate about the sale of Actew. Since that time, much water has passed under the bridge. The ActewAGL company has been established, but it is only now that we are dealing with the new regulatory regime for both that company and other utility providers that are already in the ACT or will shortly arrive in the ACT.

Members will be aware that the Standing Committee on Planning and Urban Services conducted an inquiry into this package of bills earlier this year. The committee's report was presented some months ago, and I am pleased to see that the government has taken on board the great bulk of the committee's recommendations in the form of amendments which are to be proposed by the minister this afternoon.

The Utilities Bill deals with the regulation of electricity, gas, water and sewerage services. There was a statement of regulatory intent which informed the establishment of these bills. There are other documents alongside this, and hopefully finalisation of issues such as benchmark customer contracts, consumer protection codes and codes of practice will be properly addressed through the passage of these bills today.

The utilities framework as set out in these bills is a step forward in providing a more comprehensive framework for consumer protection in the ACT and in ensuring that utility providers operate in an open and transparent way. During the inquiry process, some concerns were raised as to access to the information from the Independent Competition and Regulatory Commission as part of any decision about costs imposed on utility providers. That remains an issue of some concern. However, in wanting to ensure that these bills are passed as effectively as possible, the Labor Party does not raise those concerns at this stage, but we will be wanting to closely monitor the provision of information available to consumers and other public interest groups as the ICRC makes decisions in relation to licences and so on for utility providers.

That said, Mr Speaker, the Labor Party will be supporting in principle the bills as brought on today, and we will also be supporting the amendments proposed by the government.

MR SMYTH (Minister for Urban Services) (5.19): The government welcomes the support of the Assembly for this package of bills. It is a very important package of bills because of what it will achieve in making sure that all the concerns of the community are looked after in those most fundamental of things that we all need—water, sewerage, electricity and gas.

The government, through the consultation process and through the work of the Planning and Urban Services Committee, will amend four of the five bills. It does not have any amendments to the Gas Safety Bill. I have spoken to all members concerned and they are quite happy for all of the government's amendments, to which I understand there are no objections, to be moved as a single package.

I conclude by thanking the Assembly for their support.

MS TUCKER (5.21): These bills establish a new regulatory regime for electricity, gas and water supply in the ACT. They are part of a bigger package which includes a whole range of supporting codes of practice. It is a very large, complex and technical set of documents that have been in gestation for some time. The impetus for this work goes back to decisions by COAG some five years ago to establish a national electricity market and to restructure utilities to introduce national competition policy.

Before this time utilities were generally owned and operated by government and therefore were regulated from within. With the move to encourage increased competition between utilities, the need was identified to separate the regulatory and commercial functions of utilities, with the regulatory functions staying with government and the commercial parts of the utilities being free to compete in the open market against other utilities and ultimately being able to be privatised.

This push towards the commercialisation of utilities came to a head in the ACT with the government's proposal in 1998 to sell off Actew. Around the same time, the government released a statement of regulatory intent for utilities to enable an open market for electricity to operate in the ACT. Since that time considerable work has been put into implementing this regulatory intent. The public consultation process was initiated on the government's proposed regulatory framework, and I know groups like the conservation council and ACTCOSS provided comments at various stages.

These bills were tabled earlier this year and have been the subject of an inquiry by the Planning and Urban Services Committee. I know that the committee recommended these bills be passed with a range of conditions. I am pleased that the government has picked up a lot of the recommendations of the committee in the amendments it is proposing to these bills.

There has already been much debate in the Assembly about the future of Actew, and members will know that I have grave doubts about the public benefits of the national electricity market, the privatisation of Actew and the commercialisation of water supply. Nevertheless, we now have the new ActewAGL organisation and other electricity suppliers coming into the ACT market. We also have new gas pipelines being built across the country and new companies entering the gas market.

The need for this regulatory regime to ensure that consumer interests and the environment are protected in this brave new world of competition is becoming more apparent. It seems that all the participants in the development of the new regulatory regime support in principle the introduction of this legislation so that we can move towards having a best practice regulatory framework in the ACT.

On this basis the Greens are prepared to support this legislation. However, concerns were raised about the detail in the documents. Because the package is so complex, I am aware that community groups did not have the resources to examine all the technical codes in this package, so to some extent we are going on faith that all these codes are adequate. Therefore, it is important that the overall regulatory framework be transparent and that the decision-making processes for dealing with particular companies and for setting standards be independent, thorough and accountable so that the community can have confidence that their interests are being looking after by relevant authorities.

A key player in this framework is the Independent Competition and Regulatory Commission. It will be granting licences to utilities to operate in the ACT and determining industry codes of practice. It also has a role in advising the minister on the determination of technical codes, such as codes on health and safety issues. When the ICRC legislation was debated in this Assembly, I raised the concern that I did not think the membership of the commission was broad enough. There was too much focus on having members with economic and industry expertise and not enough on having

members with expertise in consumer rights and environmental protection. The narrowness of the ICRC makes it all the more important that community groups be able to adequately scrutinise its decisions.

I note that ACTCOSS echoed these concerns in its submissions on the package and that the Planning and Urban Services Committee referred to this issue in one of its recommendations, but the government is still resistant to broadening the membership of the ICRC. I notice, however, that the government, in its amendments, clarifies the membership of the Essential Services Consumer Council so that it includes people with expertise in assisting people suffering financial hardship and in consumer affairs. This is a good move.

The government's amendments also pick up concerns raised by ACTCOSS regarding community access to the ICRC's operations. ICRC will now be required to seek public comment on draft decisions to grant a licence to provide a utility service. The ICRC will also be required to place on its web site copies of licences granted and other decisions it makes.

The need to ensure consistency in the regulatory arrangements that apply to individual licence holders was noted by the Planning and Urban Services Committee. The bill currently allows the ICRC to exempt utilities from any conditions in their licence, which ACTCOSS and the committee thought gave too much discretion to the ICRC. The government, fortunately, has agreed to make such exemptions disallowable instruments so that at least the Assembly is able to scrutinise them.

On the environmental side of the bill, I note the very interesting clause 99, which provides that an electricity or gas supplier must not discriminate against a person who uses or supplies alternative energy services, which include demand management measures. I am disappointed, however, that there is not stronger encouragement for utilities to adopt greenhouse gas targets and energy efficiency programs. I note in the government's response to the committee's report that it will look at this issue in the context of further development of the industry and technical codes. I will be very interested to follow this up.

MR SMYTH (Minister for Urban Services): I seek leave to speak again.

Leave granted.

MR SMYTH: The scrutiny of bills committee raised some interesting points in the report. They requested some additional information in the explanatory memorandums. I now table two EMs that address the concerns raised by the committee.

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) (5.28): Again, I thank all members for the work that has gone into putting these bills together and improving them. Mr Humphries has tabled a number of amendments. I have spoken to members of the Labor Party and the crossbenchers. They have agreed to all of the amendments, and I would seek the leave of the Assembly to move all of them as a block.

Leave granted.

MR SMYTH: I move:

Nos 1 to 32—

Amendments—

Clause 7, page 4, line 19, subclause (2), definition of ***infrastructure***, paragraph (d), omit the paragraph, substitute the following paragraphs:

"(d) wires, ducts or pipes for wires, or equipment; or

(e) any other thing ancillary to any other part of the infrastructure.".

Clause 10, page 5, line 24, subclause (3), definition of ***infrastructure***, paragraph (c), omit the paragraph, substitute the following paragraphs:

"(c) any equipment (including pressure control devices, excess flow valves, control valves, actuators, electrical equipment, telemetry equipment, cathodic protection installations, compounds, pits, buildings, signs and fences); or

(d) any other thing ancillary to any other part of the infrastructure.".

Clause 12, page 6, line 24, paragraph (2) (c), omit the paragraph, substitute the following paragraphs:

"(c) pipes or equipment;

(d) any other thing ancillary to any other part of the infrastructure.".

Clause 14, page 7, line 10, paragraph (2) (c), omit the paragraph, substitute the following paragraphs:

"(c) pipes or equipment;

(d) any other thing ancillary to any other part of the infrastructure.".

Clause 15, page 7, line 20, after subclause (1) insert the following new subclause:

"(1A) The regulations may prescribe the utility network, and the infrastructure it consists of, for a utility service prescribed by regulations under subsection (1).".

Clause 16, page 7, line 27, subclause (2), omit "The industry code may", substitute "Without limiting the operation of subsection (1), the industry code may".

New clauses—

Page 14, line 18, after clause 30 insert the following new clauses in the Bill:

"**30A Special conditions—gas distribution**

A licence to distribute gas is, in addition to the conditions mentioned in section 25, subject to the condition that the distributor must—

(a) on request by a gas supplier or other person; and

(b) on payment to the distributor of any relevant capital contribution charge;

connect the premises to which the request relates to the distributor's network.".

Page 16, line 6, after clause 34 insert the following new clause in the Bill:

"**34A Public consultation**

(1) Before ICRC makes a defined licence decision under this Division, it may give public notice about the matter to be decided and invite submissions about that matter from interested people.

(2) The public notice must—

(a) be published in a daily newspaper and on ICRC's web site on the Internet; and

(b) state where copies of relevant documents may be inspected; and

(c) state—

(i) where submissions may be lodged; and

(ii) the closing date for submissions, that is at least 28 days after the notice is published.

(3) If ICRC gives public notice under subsection (1) about a defined licence decision, it must not make the decision unless it has—

(a) allowed the utility a reasonable opportunity—

(i) to examine submissions lodged with ICRC in accordance with the public notice; and

(ii) to make representations to ICRC about any matter raised in the submissions; and

(b) considered the matters raised in all the submissions and representations properly made to ICRC.

(4) In this section:

defined licence decision means a decision to—

(a) grant a licence under section 35; or

(b) vary a licence under section 36; or

(c) exempt a utility under section 37; or

(d) agree to the transfer of a licence under section 38.

utility—

(a) in relation to the grant of a licence—means the applicant for the licence; and

(b) in relation to the transfer of a licence—includes the intended transferee.".

Amendments –

Clause 35, page 16, line 18, subclause (3), omit the subclause, substitute the following subclause:

"**(3)** A licence to provide utility services to franchise customers, whether exclusively or otherwise, may be granted by ICRC only with the written approval of the Minister.".

Clause 37, page 18, line 2, after subclause (4) insert the following new subclause:

"**(5)** An exemption notice is a disallowable instrument.".

New clause –

Page 19, line 16, after clause 40 insert the following new clause in the Bill:

"40A AAT review of decisions

(1) Application may be made to the administrative appeals tribunal for review of the following ICRC decisions:

(a) refusing to grant a licence under section 35;

(b) granting a licence under section 35 with conditions stated by ICRC;

(c) refusing to vary a licence under section 36 on application by the utility;

(d) varying a licence under section 36 on its own initiative;

(e) refusing to agree to the transfer of a licence under section 38;

(f) revoking a licence under section 40.

(2) A notice under section 35, 36, 38 or 40 of a decision mentioned in subsection (1) must be in accordance with the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.".

Amendments—

Clause 50, page 24, line 5, subclause (1), omit the subclause, substitute the following subclause:

"**(1)** ICRC must make copies of each of the documents mentioned in subsection (2) available for inspection by members of the public—

(a) during ordinary office hours at the office of ICRC; and

(b) at any other place determined by ICRC; and

(c) on ICRC's web site on the Internet.".

Clause 50, page 24, line 23, subclause (3), omit the subclause, substitute the following subclause:

"**(3)** A person may—

(a) without charge, inspect a document made available in accordance with subsection (1); and

(b) on payment of the determined fee (if any), make a copy of all or any part of the document, during ordinary office hours, at ICRC's office.".

Clause 58, page 29, line 18, subclause (2), after "variation of an industry code" insert "under section 55".

Clause 58, page 29, line 30, subclause (3), after "determine a variation" insert "of an industry code".

Clause 78, page 38, line 12, omit the clause, substitute the following clause:

"78 Gas connection service

A gas supplier must, on application by a person, and in accordance with the supplier's standard customer contract, request a gas distributor to—

(a) connect the premises to which the application relates to the distributor's network; or

(b) vary the capacity of the connection between the premises to which the application relates and the distributor's network.

Note The gas distributor to whom the request is made generally must connect the applicant's premises to the distributor's network, or vary the capacity of the connection. See section 30A (Special conditions—gas distribution).".

Clause 79, page 38, line 19, omit the clause, substitute the following clause:

"79 Gas supply service

(1) A gas supplier must, on application by a person, and in accordance with the supplier's standard customer contract, supply gas through a gas distribution network to premises owned or occupied by the person.

(2) This section does not apply to the supply of gas to premises for a non-franchise customer.".

Clause 92, page 43, line 31, subclause (2), omit the subclause, substitute the following subclause:

"**(2)** The contract is unenforceable by the utility to the extent (if any) to which it is inconsistent with—

(a) the conditions of the utility's licence; or

(b) the requirements imposed by or under this Act or a related law, including in particular, the requirements of each industry code or technical code that is applicable.".

Clause 98, page 47, line 8, subclause (1), omit the subclause, substitute the following subclause:

"**(1)** A utility may impose a charge (a ***capital contribution charge***) payable by customers for the development or augmentation of its network for the following purposes:

(a) making utility services available to parcels of land not already connected to a network;

(b) varying the capacity of connections to its network.

New clauses—

Page 56, line 25, after clause 117 insert the following new clauses in the Bill:

" '**17A Clarifying ownership of certain network facilities**

(1) The purpose of this section is to remove uncertainty about the ownership of network facilities that—

(a) are used, or for use, by a utility or a subsidiary of the utility in providing a utility service; and

(b) are treated by the Territory and the utility or subsidiary as being owned by the utility or subsidiary; and

(c) are affixed to land owned or occupied by a person other than the utility or subsidiary.

(2) The Minister may make declarations that this section applies to stated network facilities.

(3) Without limiting the operation of section 27 of the *Interpretation Act 1967*, network facilities may be stated in a declaration particularly or by reference to a stated class, for example, all network facilities or all network facilities apart from stated exceptions.

(4) A declaration, or a particular provision of a declaration, takes effect—

(a) on the day notice of the making of the declaration is published in the Gazette; or

(b) if the declaration provides for a later date of effect—on that day.

(5) A publication in the Gazette of the making of a declaration must include sufficient particulars from the declaration to identify the facilities to which the declaration relates.

'17B Effect of declaration under section 117A

(1) On the day a declaration under section 117A takes effect in relation to a network facility, the facility, by force of this section—

(a) is severed from the land and remains severed; and

(b) vests in the person in whom the declaration states that the facility vests, without any conveyance, transfer or assignment.

(2) A facility severed under subsection (1) ceases for all purposes to be a fixture.

(3) A person in whom a facility is vested has, by force of this section, the following rights in relation to the facility:

(a) to have the facility (including any lines, pipes, equipment and any other thing ancillary to any other part of the facility) remain on, under or over the land for the provision of utility services;

(b) for that purpose, to use, or continue to use, the facility;

(c) to enter and occupy land on, above or under which the facility is located, and to undertake work on that land, for the purpose of maintaining the facility.

(4) To ensure the proper provision of utility services, the Minister may, by notice in the Gazette, determine conditions for the exercise of a right conferred by paragraph (3) (c) and, if any such conditions are determined, the right may only be exercised in accordance with the conditions.

(5) A declaration under section 117A has no effect to the extent that it would vest a facility in a person if the facility had not been used, or for use, by the person in providing a utility service before the declaration.".

Amendments—

Clause 119, page 57, line 19, paragraphs (2) (a) and (b), omit the paragraphs, substitute the following paragraphs:

"(a) it is sufficient to prove that, when the action occurred, there were reasonable grounds for believing it was likely to interfere with the network or facility; and

(b) the offence may be found to be proved even if, at that time, the defendant did not believe the action would be likely to interfere with the network or facility.".

Clause 121, page 59, line 2, omit the clause, substitute the following clause:

"121 Contamination of water

(1) A person must not contaminate water in a water network unless authorised to do so by the responsible utility.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) In a prosecution for an offence against subsection (1), for the purpose of establishing whether an action contaminated water—

(a) it is sufficient to prove that, when the action occurred, there were reasonable grounds for believing it was likely to contaminate the water; and

(b) the offence may be found to be proved even if, at that time, the defendant did not believe it would be likely to contaminate the water.

Clause 122, page 59, line 23, paragraphs (2) (a) and (b), omit the paragraphs, substitute the following paragraphs:

"(a) it is sufficient to prove that, when the action occurred, there were reasonable grounds for believing it was likely to interfere with the network or facility (or form compounds likely to do so); and

(b) the offence may be found to be proved even if, at that time, the defendant did not believe the action would be likely to have that effect.".

Clause 147, page 66, line 24, after subclause (2) insert the following new subclause:

"**(3)** A person must not be appointed under subsection (1) unless—

(a) the person is an Australian citizen or a permanent resident of Australia; and

(b) the chief executive has certified in writing that, after appropriate inquiry, the chief executive is satisfied that the person is a suitable person to be appointed, having regard in particular to—

(i) whether the person has any criminal convictions; and

(ii) the person's employment record; and

(c) the chief executive has certified in writing that the chief executive is satisfied that the person—

(i) has satisfactorily completed adequate training; and

(ii) is competent;

to exercise the powers of an inspector proposed to be given to the person.

Clause 163, page 73, line 31, omit "or a technical inspector", substitute ", a technical inspector or an authorised person".

Clause 169, page 76, line 1, after subclause (1) insert the following new subclause:

"**(1A)** Before appointing a member of the council, the Minister must ensure that, collectively, the members have qualifications or experience in the following fields:

(a) assisting or working with people suffering financial hardship;

(b) law;

(c) business;

(d) consumer affairs.".

Clause 170, page 76, line 12, subclause (3), omit "2 years", substitute "3 years".

Clause 187, page 82, line 17, subclause (3), omit the subclause, substitute the following subclause:

"**(3)** Before giving a direction under subsection (2), the council must have regard to the utility's reasons for the withdrawal of the utility service.".

New clause—

Page 96, line 15, after clause 225 insert the following new clause in the Bill:

"225A Evidence of authorisation by utility

For this Act or a related law, a certificate that appears to be signed by or on behalf of a utility and contains a statement to the effect that—

(a) a stated thing was done by a stated person in accordance with an authorisation by the utility; or

(b) an authorisation by the utility was subject to a stated condition at a stated time or date;

is evidence of the matters stated.".

Amendments—

Clause 228, page 97, line 26, after subclause (1) insert the following new subclause:

"**(1A)** The regulations may make provision in relation to the safe or efficient provision of utility services, including provision prohibiting or regulating activities—

(a) to ensure the safe or efficient operation of a utility network or network facility; and

(b) to protect people or property in relation to the operation of a utility network or network facility.".

New clause—

Page 103, line 24, after clause 239 insert the following new clause in the Bill:

"239A Safety and operating plans

(1) Until a technical code for emergency planning takes effect in relation to the provision of a utility service for gas—

(a) a safety and operating plan under the former regulations that applied to the provision of the service continues to apply as if the plan were a technical code; and

(b) the former regulations continue to apply in relation to the plan.

(2) In this section:

former regulations means the provisions of the *Gas Supply Regulations 1999* in force immediately before the repeal of the *Gas Supply Act 1998*.".

Dictionary, page 108, line 15, definition of ***network,*** after paragraph (d) insert the following new paragraph:

"(e) a network prescribed for a prescribed utility service under section 15 (Prescribed utility services).".

Amendments agreed to.

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

Bill, as amended, agreed to.

UTILITIES (CONSEQUENTIAL PROVISIONS) BILL 2000

Debate resumed from 17 February 2000, on motion by **Mr Humphries**:

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) (5.31): I seek leave to move amendments Nos 1 to 27 circulated in the Treasurer's name together.

Leave granted.

MR SMYTH: I move:

Nos 1 to 27—

Schedule 1 –

Page 5, line 19, **Part 4** (***Electricity Act 1971***), proposed amendment of subsection 3 (1), (proposed new definition of ***electrical installation***), omit the definition, substitute the following definition:

" '***electrical installation*** means any electrical wiring or cable, or associated appliance, apparatus or fitting, used or for use in relation to the conveyance, control or use of electricity within premises, but does not include anything—

(a) forming part of an electricity network; or

(b) connected to and extending or situated beyond an electrical socket outlet.'.".

Page 6, line 5, **Part 4** (***Electricity Act 1971***), proposed amendments of section 33, omit the amendments, substitute the following new amendment:

"**Section 33—**

Omit the section, substitute the following section:

'**33 Connecting electrical installations to network—inspections**

A person must not, except in circumstances prescribed by the regulations, connect a new electrical installation to an electricity network unless the installation has been inspected, tested and passed by an inspector.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.'.".

Page 6, line 14, **Part 4 (*Electricity Act 1971*)**, proposed amendments to repeal sections 90 and 93, omit the amendment, substitute the following new amendments:

"**Section 86—**

Omit "own works", substitute 'electricity network'.

Part 8—

Repeal the Part.".

New Part –

Page 6, line 19, after **Part 4** ***(Electricity Act 1971)***, insert the following new Part:

"**Part 4A**

Emergency Management Act 1999

Subsection 3 (1) (definition of *emergency)*—

Omit the definition, substitute the following definition:

'***emergency*** means an event (such as fire, flood, storm, earthquake, drought, explosion, accident, shortage of electricity, gas or water, epidemic or animal disease), actual or imminent, which requires a significant and coordinated response.'.".

Page 6, line 22, **Part 5, (*Fair Trading Act 1992)***, proposed amendment of subsection 5 (1) (definition of *services*, subparagraphs (a) (i) and (ii)), omit the amendment.

Page 7, line 1, **Part 5 (*Fair Trading Act 1992*)**, proposed amendment of subsection 5 (1) (definition of *services*, paragraph (b)), omit the amendment.

Page 10, line 13, **Part 6 (*Independent Competition and Regulatory Commission Act 1997*)**, proposed new subsection 4B (2), omit the subsection, substitute the following subsections:

" '**(2)** No reference may be made under this Act for a price regulation investigation into ACT gas distribution service pricing.

'**(3)** In this section:

ACT gas distribution service means a distribution service provided by means of a natural gas distribution pipeline within the meaning of the *Gas Pipelines Access (A.C.T.) Law*.

ACT gas transmission service means a transmission service provided by means of a natural gas transmission pipeline within the meaning of the *Gas Pipelines Access (A.C.T.) Law*.'.".

Page 10, line 17, **Part 6 (*Independent Competition and Regulatory Commission Act 1997*),** proposed amendment of paragraph 8 (g) (heading), omit the heading, substitute the following heading:

"**Paragraph 8 (1) (g)—**".

Page 11, line 25, **Part 6 (*Independent Competition and Regulatory Commission Act 1997*)**, proposed amendments of paragraphs 19 (1) (a) and (b), omit the amendment.

Page 14, line 1, **Part 6 (*Independent Competition and Regulatory Commission Act 1997*)**, proposed amendments of paragraph 21 (c), (heading), omit the heading, substitute the following heading:

"**Paragraph 21 (1) (c**)—".

Page 17, line 5, **Part 6 (*Independent Competition and Regulatory Commission Act 1997*)**, proposed new paragraph 24E (3) (b), omit the paragraph, substitute the following paragraph:

" '(b) the approval or determination of an industry code or technical code (or a variation of such a code) under the *Utilities Act 2000*.'.".

Page 20, line 30, **Part 6 (*Independent Competition and Regulatory Commission Act 1997*)**, proposed new subsection 24Q (1), omit "must exercise", substitute "may exercise".

Page 27, line 3, **Part 7 (*Lands Acquisition Act 1994*)**, proposed new amendments of section 4, after the amendment of section 3 insert the following new amendments:

"Section 4—

(a) Insert "**(1)**" before "A person".

(b) After subsection (1), insert the following new subsection:

'**(2)** For the compulsory acquisition of land by a utility under section 101 of the *Utilities Act 2000*, an authorised person for the utility under that Act is also an authorised person for this Act.'.".

Page 28, line 10, **Part 7 (*Lands Acquisition Act 1994*)**, proposed new paragraphs 96A (k) and (l), omit the paragraphs.

Page 31, line 27, **Part 12 (*Public Health Act 1997*)**, proposed amendment of subsection 5 (1), omit the amendment.

Page 32, line 2, **Part 12 (*Public Health Act 1997*)**, proposed amendment of section 20 (penalty provision) (heading), omit the heading, substitute the following heading:

"**Subsection 20 (1) (penalty provision)—**".

Page 32, line 9, **Part 12 (*Public Health Act 1997*)**, before the proposed amendment of subsection 20 (1) (penalty provision) insert the following new amendment:

"**Subsection 20 (2) (penalty provision)—**

Omit the penalty provision, substitute the following penalty provision:

'Maximum penalty:

(a) for a person who is not a utility—50 penalty units, imprisonment for 6 months or both; or

(b) for a utility—2 000 penalty units, imprisonment for 6 months or both.'.".

Page 32, line 24, **Part 12 (*Public Health Act 1997*)**, proposed amendment of section 25 (penalty provision), omit the amendment.

Page 33, line 1, **Part 12 (*Public Health Act 1997*)**, before the proposed amendment of section 57 (penalty provision) insert the following new amendments:

"**Subsection 42A (1) (penalty provision)—**

Omit the penalty provision, substitute the following penalty provision:

'Maximum penalty:

(a) for a person who is not a utility—30 penalty units; or

(b) for a utility—2 000 penalty units.'.

Subsection 42A (2) (penalty provision)—

Omit the penalty provision, substitute the following penalty provision:

'Maximum penalty:

(a) for a person who is not a utility—30 penalty units; or

(b) for a utility—2 000 penalty units.'.

Subsection 42A (3) (penalty provision)—

Omit the penalty provision, substitute the following penalty provision:

'Maximum penalty:

(a) for a person who is not a utility—30 penalty units; or

(b) for a utility—2 000 penalty units.'.".

Page 33, line 9, **Part 12 (*Public Health Act 1997*)**, proposed new subparagraphs 66 (3) (c) (i) and (ii), omit the subparagraphs, substitute the following subparagraphs:

'(i) for an individual (other than a utility)—$10 000; or

(ii) for a corporation (other than a utility)—$50 000; or

(iii) for a utility who is an individual—$200 000; or

(iv) for a utility that is a corporation—$1 000 000.'.".

Page 33, line 21, **Part 12 (*Public Health Act 1997*)**, proposed new subparagraphs 73 (3) (c) (i) and (ii), omit the subparagraphs, substitute the following subparagraphs:

'(i) for an individual (other than a utility)—$5 000; or

(ii) for a corporation (other than a utility)—$25 000; or

(iii) for a utility who is an individual—$100 000; or

(iv) for a utility that is a corporation—$500 000.'.".

Page 35, line 9, **Part 12 (*Public Health Act 1997*)**, proposed new subparagraphs 118 (3) (c) (i) and (ii), omit the subparagraphs, substitute the following subparagraphs:

'(i) for a person (other than a utility)—$5 000; or

(ii) for a corporation (other than a utility)—$25 000; or

(iii) for a utility who is an individual—$100 000; or

(iv) for a utility that is a corporation—$500 000.'.".

Page 37, line 7, **Part 12 (*Public Health Act 1997*)**, proposed new subsection 118F (1), omit "The chief health officer may,", substitute "For this Act, the chief health officer may,".

Page 37, line 12, **Part 12 (*Public Health Act 1997*)**, after proposed new section 118F, insert the following new section:

" '118FA Contaminated drinking water provided by water utility

'**(1)** A water utility must not, without lawful authority, knowingly or recklessly contaminate water used, or for use, as drinking water by people or animals.

"Maximum penalty: 2 000 penalty units.

'**(2)** A water utility that contravenes subsection (1) commits a separate offence for each day during any part of which the contamination continues.'.".

Page 38, line 15, **Part 12 (*Public Health Act 1997*)**, proposed new subsection 118K (1), omit "The chief health officer may,", substitute "For this Act, the chief health officer may,".

Page 39, line 3, **Part 12 (*Public Health Act 1997*)**, proposed amendment of paragraphs 138 (2) (a) and (b), omit the amendment, substitute the following new amendments:

'**Subsection 138 (3)—**

Omit the subsection, substitute the following subsection:

'**(3)** The regulations may create offences for contraventions of the regulations and prescribe maximum penalties of not more than—

(a) for a person who is not a utility—10 penalty units; or

(b) for a utility—400 penalty units.'.

Dictionary (proposed new definition of *utility*)—

Insert the following definition:

'***utility*—**see *Utilities Act 2000*, dictionary.'.".

Page 41, line 10, **Part 13 (*Rates and Land Rent (Relief) Act 1970*)**, proposed new subsection 25 (6), omit "This section", substitute "Subsection (5)".

Amendments agreed to.

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

Bill, as amended, agreed to.

GAS SAFETY BILL 2000

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

That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

WATER AND SEWERAGE BILL 2000

Debate resumed from 30 March 2000, on motion by **Mr Humphries**:

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) (5.33): Mr Speaker, I seek leave to move amendments Nos 1 to 15 circulated in the name of the Treasurer together.

Leave granted.

MR SMYTH: I move:

Nos 1 to 15—

Amendments –

Clause 7, page 3, line 28, subclause (2), omit the subclause.

Clause 8, page 4, line 23, paragraph (1) (b), insert "the responsible utility and" after "from".

Clause 9, page 5—

Line 2, subclause (1), omit "an approved plan", substitute "a plan approved by a certifier".

Line 4, subclause (2), omit the subclause.

Clause 11, page 6—

Lines 4 and 8, subclauses (1) and (2), omit "sprinkler system", substitute "fire sprinkler service".

Line 11, subclause (3), omit the subclause.

Clause 16, page 8, line 13, paragraph (2) (a), omit the paragraph.

Clause 23, page 12, line 16, paragraph (3) (c), omit "the person", substitute "the chief executive has certified in writing that the chief executive is satisfied that the person".

Clause 45, page 22, line 20, subclause (3), omit the subclause, substitute the following subclauses:

" '**(3)** A determination—

(a) must provide who is liable to pay a fee; and

(b) may make provision about when the fee is payable (including the deferment of payment) and how it is to be paid (for example, as a lump sum or by instalments); and

(c) may make provision about the remission or refund of fees by the registrar, in whole or in part, in particular circumstances; and

(d) may make provision about anything else relating to the fee.

'**(4)** A determination is a disallowable instrument.".

New clauses—

Page 22, line 21, after clause 45 insert the following new clauses in the Bill:

"**45A Fees payable to Territory in accordance with determinations etc**

(1) A fee determined under section 45 is payable to the Territory, in relation to the relevant matter mentioned in the determination and in accordance with the determination, by the person liable to pay the fee under the determination.

(2) A fee determined under section 45 is payable in advance unless the determination provides otherwise.

(3) If a fee determined under section 45 is payable in advance and the amount has not been paid, the chief executive or anyone else is not obliged to exercise a function, or provide a service or facility, in relation to which the amount is payable.

45B Regulations may make provision about fees

(1) The regulations may make provision with respect to the payment by cheque or credit card of any fee payable under this Act, including, for example, the consequences of a cheque not being met on presentation or a credit card transaction not being honoured.

(2) Without limiting subsection (1), the regulations may make provision for or with respect to—

(a) the suspension, cancellation or revocation of any registration, condition, document, or anything else done, given or issued under this Act if any fee payable for or in relation to it—

(i) is not paid when it is required to be paid; or

(ii) is paid by cheque and the cheque is not met on presentation; or

(iii) is paid by credit card and the credit card transaction is not honoured; or

(b) the restoration (whether prospectively or during any past period of suspension, cancellation or revocation) of any registration, permit, document, or anything else so suspended, cancelled or revoked.

45C Approved forms

(1) The chief executive may approve forms for this Act.

(2) If the chief executive approves a form for a particular purpose, the approved form must be used for that purpose.".

Dictionary—

Page 27—

Line 2, definition of ***approved***, omit the definition.

Line 7, after the definition of ***certifier***, insert the following definition:

"***credit card*** includes a debit card.".

Line 8, definition of ***determined fee***, omit the definition.

Line 10, after the definition of ***determined fee***, insert the following new definitions:

"***drain*** means any pipe or conduit connected to, and used for—

(a) the drainage of a single building; or

(b) the drainage of any group of buildings by a combined operation in accordance with the regulations;

and communicating with a sewerage network or to a septic tank, on-site sewerage treatment unit or other receptacle for drainage.

fire sprinkler service—see Australian Standard 3500".

Page 28, line 5, after the definition of ***single residential building***, insert the following new definition:

"***site plan***—see Australian Standard HB 50 as in force on 1 March 1999.".

Amendments agreed to.

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

Bill, as amended, agreed to.

ELECTRICITY AMENDMENT BILL 2000

Debate resumed from 30 March 2000, on motion by **Mr Humphries**:

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) (5.34): Mr Speaker, I seek leave to move amendments Nos 1 to 6 circulated in the name of the Treasurer together.

Leave granted.

MR SMYTH: I move:

Clause 5, page 4, line 6, proposed new paragraph 5 (2) (e), omit the paragraph, substitute the following paragraph:

" '(e)1 must be a person nominated by the chief executive.'.".

Clause 23, page 8, line 17, after proposed new section 79 insert the following new section:

" '**79A Energy efficiency requirements**

'**(1)** A trader must not, without reasonable excuse, sell an article of electrical equipment unless the article complies with the relevant energy efficiency standard.

Maximum penalty: 50 penalty units.

'**(2)** A trader must not, without reasonable excuse, sell an article of electrical equipment unless it is labelled with an energy efficiency label in accordance with the regulations.

Maximum penalty: 10 penalty units.

'**(3)** A person must not attach an energy efficiency label to an article of electrical equipment unless, under the regulations, the article has the energy efficiency rating indicated by the label.

Maximum penalty: 30 penalty units.

'**(4)** A person must not attach to an article of electrical equipment anything that falsely appears to be an energy efficiency label.

Maximum penalty: 30 penalty units.

'**(5)** The relevant energy efficiency standard for an article of electrical equipment of a particular type is—

(a) the energy efficiency standard (however described) for articles of that type under a corresponding law ascertained under the regulations; or

(b) if the regulations provide an energy efficiency standard for articles of that type—that standard.

'**(6)** The regulations may make provision in relation to the energy efficiency of articles of electrical equipment, including provision for—

(a) standards of energy efficiency; and

(b) the examination and testing of articles; and

(c) labels and labelling for articles; and

(d) the prescription or ascertainment of corresponding laws for this section.

'**(7)** Without limiting the operation of subsection (6), the regulations may make provision for a matter by reference to an instrument in force from time to time under a corresponding law.

'**(8)** This section does not apply to a second-hand article.

Clause 23—

Page 11, line 21, proposed new subsection 87 (2), omit the subsection, substitute the following new subsection:

" '**(2)** Subsection (1) does not apply to a disturbance or interference by the person—

(a) except where paragraph (b) applies—more than 24 hours after the accident; or

(b) if, within the 24 hours, the chief executive extends the period and tells the person of the extension—after the extended period expires.

Page 13, line 34, proposed new paragraph 89D (3) (c), omit "the person—". substitute "the chief executive has certified in writing that the chief executive is satisfied that the person—".

Page 15, line 12, proposed new paragraph 89H (2) (c), before "the time" insert "stating".

Page 23, line 24, proposed new subsection 89ZB (2), omit "this Act", substitute "this Part".

Amendments agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Proposed Belconnen Swimming Pool

MR BERRY (5.35): I want to express my regret about something that was discovered in question time today—the apparent bogging down of the government's promise to build a pool at Belconnen. This is a matter which has been on the record for years and years. It was more than about six years ago that it was first promised by the Liberals, in particular by Mr Stefaniak. Mr Stefaniak has lunched out on this promise on several occasions.

We have seen more sod turning in Belconnen than you would see in a reasonable garden. We have even seen tractors in action, getting ready for this remarkable pool. As I said today, I think the only thing the people of Belconnen will see is a number of potholes filled with water from recent rain. They should not believe that those pothole are the swimming pool to be provided by the government. No doubt the tadpoles that are probably swimming around in them after this long period of rain will be very happy with those little holes that have been left as a result of the sod turnings by this minister.

The shame of it is that Belconnen residents have been waiting for a Belconnen pool which started out to be equal to or better than the Tuggeranong pool produced by Labor but which has since been slowly evaporating. I think that is an appalling show of ineffectiveness by this minister and this government. All the time we have seen things like the futsal slab, the Feel the Power campaign, the hospital implosion and all of the other profligate spending from this government, this minister has been unable to effectively bring forward the proposal to implement the promise in Belconnen. I find that absolutely extraordinary.

I cannot for the life of me see how this government can walk away from the promise. It certainly looks as though they have. The minister in question time today informed us that it is unlikely that Belconnen residents will be swimming in a pool by the next election. That will be three elections this promise will have spanned. I cannot believe that a minister would be so barefaced as to inform us to that level without giving us a full statement as to his failure to perform in relation to the provision of that important election promise.

The residents of Ginninderra are entitled to be angry about this promise, whether or not they are swimmers, whether or not they are likely to use the Belconnen pool. It is a promise that has been made over and over again and demonstrates the lack of commitment to the electorate by this government, despite a strong and enduring commitment to expensive and grandiose schemes. I think the minister may have been distracted by these expensive and grandiose schemes in Belconnen and perhaps lost sight of the promise that he made so many years ago and has repeated so many times since.

If you are out in Belconnen and see wandering up Eastern Valley Way near the intersection with the proposed extension of Aikman Drive a lost soul looking for the promised swimming pool, just take the time to go over and say to him, "Look, those potholes that were made from the sod turnings are not the pool. We are still waiting, waiting, waiting, waiting."

Mr Athol Williams

MR STANHOPE (Leader of the Opposition) (5.39): I want to make some comments about one of the very excellent candidates the ALP has preselected for the seat of Brindabella at next election, namely, Mr Athol Williams, who was the subject of the venting of significant spleen by the Deputy Chief Minister in a press release this week. I want to draw attention to the incredible values which Mr Athol Williams brings not just to the Labor Party but to the community. I will give a brief summary of Mr Williams' life and commitment to the Canberra community and in particular to the people of Tuggeranong.

Athol is one of those rare people who were born in Canberra, and he has lived in Canberra all his life. He has lived in Tuggeranong since 1974 and is proud of the fact that he and his wife were the 31st settlers in the valley of Tuggeranong after its redevelopment. They occupied the 31st house. Athol has been a member of the Labor Party since 1973, which is very significant. Irrespective of what side of politics one is on, one can only admire that dedication to public life that has been exhibited through membership of a political party for 27 continuous years. He has held a number of very senior positions within the ALP over that time.

He has been a delegate of the Trades and Labour Council, president/secretary of the Goulburn District Trades and Labour Council and a national conference delegate for SDAEA. As many people would know, Athol is a full-time union organiser for the Shop, Distributive and Allied Employees Association, and has been so since June 1975. The SDAEA is the biggest union in the ACT, the union that cares for young shop workers, people who are quite vulnerable. I think everybody here would admit that those workers are the most subject to abuse by disreputable employees of any group of workers one could imagine. From my four children working at jobs in their youth I am aware of some

of the employment practices that are perpetrated against young people. I have often had occasion to be very thankful for the SDA and for the work that Athol Williams has done.

Athol was the chief steward of the Canberra Greyhound Racing Club for a number of years, the initial secretary of the Kambah Residents Association, a board member for Tuggeranong Cooperative Retail Supermarket, a board member of the Australian Workers Housing Cooperative, board member of 2SSS FM and, as Mr Smyth pointed out, board member and chairman of ACTTAB. He is also a board member of the National Price Watch Committee, coach of a whole range of award-winning and premiership-winning high school and primary school softball teams, an ACT coach for softball, a board member of the Sudden Infant Death Association, a board member of the Retail Industry Training Board, leader of Neighbourhood Watch for Kambah and very active in AFL for Canberra.

He is a man with a distinguished record of achievement for Canberrans and particularly for people in the valley. He is an outstanding Canberran and a credit to the Labor team. He is a man with exceptional family and community values, a man who is true in public to his personal values, a man who through his commitment to his family personifies the central role of the family in the community and the importance of family values, a man who has stood by his wife, Cheryl, and his family in all the adversities of life, a man who through his marriage to his wonderful wife, Cheryl, lives the values of family life and the need to nurture a wife and a family and to stick with them through thick and thin.

He is an untiring advocate for the community, a man whose working life has been centred on maintaining employment conditions and quality of life for others, and as a union official a man who has stood firm in the face of the unprincipled attacks of others. He is a man who did not deserve this low, gutter, snivelling attack by one of his political opponents in Tuggeranong, Brendan Smyth, the so-called Deputy Chief Minister.

MR SPEAKER: The member's time has expired.

Mr Mark Stowers
Proposed Belconnen Swimming Pool

MR STEFANIAK (Minister for Education and Minister Assisting the Attorney-General) (5.44): I want to put on record my gratitude to a lot of people at an event I had the pleasure of going to last night. Mark Stowers, who is dying of cancer, played well over 100 grade games for Royals from 1980 to 1988. He has about two weeks to live. I was highly impressed with the community spirit shown at a fundraiser for him last night.

Former Raider Ricky Stuart and current Raider, soon to go to England, David Furner were there, along with Steve Larkham and Owen Finegan. There were about 300 people from right across the spectrum of Canberra's sporting society there, and I was delighted to see over $40,000 raised by community effort for Mr Stowers' family.

He will leave behind him a wife and three young children. I put on record my gratitude to the Canberra sporting community in assisting the Stowers family in their time of need and their time of grief. It was a wonderful gesture by a lot of people in Canberra sport.

Finally, I remind Mr Berry that it takes at least 12 months to build a pool, and the next election is in 10½ months.

Mr Athol Williams

MR HARGREAVES (5.46): I would not normally rise in this place to criticise another member on a non-policy issue. Normally, I leave my remarks, as cutting as I can make them, to policy issues. However, this time I want to make an exception. I want to add my voice of support to Mr Athol Williams and to make a couple of comments about the scurrilous attack on him in the newspaper the other day. It was totally unwarranted.

Athol Williams was a quiet achiever in his community when his detractor was 11 years old. His record speaks for itself. As my leader, Mr Stanhope, said, Athol Williams was a founding member of the Kambah Residents Association, a forerunner of the Tuggeranong Community Council, which is about as connected with the community as you will get.

Mr Williams' CV is very impressive. He is not merely a paperboy or a glorified shop assistant, which his detractor is, I am afraid. Mr Williams is well known within the circles in which he moves as being an adherent of the truth. The same can not be said for his detractor. Mr Williams is definitely fit to represent Labor. He personifies all that is Labor. It is about compassion, and Mr Williams has compassion in abundance.

Mr Williams' detractor cannot be trusted. Let me tell an anecdote. Whilst I was campaign manager for a person who was subsequently elected to the federal parliament, I had a handshake agreement with the Deputy Chief Minister that there would be no personal attacks in the course of the campaign. One week later the personal campaign came out. It was straight from the Lynton Crosby school of gutter politics. It was just not on.

This minister is not fit to stand in Mr Williams' shadow. The word "gutless" was used earlier on, and I have to say it is right. This is the same Deputy Chief Minister who runs out and gets as much publicity as he can on positive issues, but when it comes to bad news or when he is criticised he hides behind mummy's skirts and his spokeswoman has to make the responses. I am absolutely fed up with this sort of gutter politics.

Mr Smyth, the Deputy Chief Minister, ought to stand up in this place and apologise to Mr Williams. His behaviour is appalling. If he wants to have a go at us, he can do so. That is why we are here. Mr Williams is twice the man Mr Smyth is. Mr Smyth ought to apologise forthwith.

Mr Athol Williams

MR OSBORNE (5.48): I make a couple of observations. I too saw Mr Smyth's press release. I do not know Athol Williams. I have met him once. If that was the first shot fired in the election campaign, I think it was a regrettable one. I hope that both major parties and their candidates have a good look at themselves and not descend into that type of politicking. It was most unfortunate on the part of the minister and very disappointing. I am encouraged by what Mr Stanhope has had to say, and what he said in

private conversations to me, about how Labor will conduct the campaign, and I would hope that the Liberal Party will do the same.

Mr Athol Williams

MR SMYTH (Minister for Urban Services) (5.49): Following Mr Hargreaves' display of tetchiness and insults to paperboys and shop assistants, I thought I would come down to the chamber and read onto the record what I said in my press release. I notice that they do not wish to talk about the issues but rather go on the attack. The press release simply said:

> The man who signed the VITAB betting deal, which nearly destroyed ACTTAB and ended up costing taxpayers more than $5 million, has actually been pre-selected by the Labor Party as a candidate for the next ACT election.
>
> Mr Athol Williams, the former Chairperson of the board of ACTTAB, won Labor Party pre-selection for the electorate of Brindabella last weekend.
>
> Mr Williams who was part of the only board in the history of self-government to be sacked, was given the option of resigning or being terminated by the former ALP Government itself in June 1994.
>
> Deputy Chief Minister Brendan Smyth said today that he was astounded that the Labor Party believed that Mr Williams was a suitable candidate to become a minister should the ALP win the next election.
>
> Mr Smyth said the VITAB deal had been described in 1997 by an independent investigation as a "fraudulent scheme," and that the former board of ACTTAB, chaired by Mr Williams, had been "inept." (Burbidge Report… paragraph 308)
>
> The original deal, signed by Mr Williams, was described by the former Labor Sports Minister Wayne Berry as "money for jam."
>
> Mr Smyth said that the former Labor Government had been forced to pay out $3.3 million to settle a court case with VITAB after it broke its contractual relationship with the Vanuatu-based betting agency.
>
> "On top of this we must add the cost of two inquiries and legal expenses, which bring the total loss to taxpayers to well over $5 million. The only money for jam here went to the principals of VITAB, not Canberra taxpayers."
>
> Mr Smyth said that former Labor Sports Minister David Lamont had been forced to use a legislative instrument to remove the board of which Mr Williams was the Chair.
>
> "Under the laws governing ACTTAB at the time, Mr Lamont could have only dismissed any member of the board chaired by Mr Williams for one of two reasons, and that was either misbehaviour or incapacity.
>
> "So here we have a situation where a Labor Minister decides he has no option in the wake of the VITAB scandal but to get rid of the ACTTAB board by either seeking their resignations or dismissing them for misbehaviour or incapacity. Yet the chair of that board is now deemed worthy of becoming an MLA and possibly a Labor Minister under Mr Stanhope.

> "All I can say is that Mr Williams, a senior union official in the ACT, must have extraordinary clout within the Labor Party.
>
> "And make no mistake, VITAB was a scandal. The deal was described as "a fraudulent scheme" carried out by the promoters of VITAB.
>
> "On top of the monetary losses, the failed deal forced the cancellation of ACTTAB's betting pool links, saw the agency lose several major punters interstate and ultimately, resulted in a successful no-confidence motion against Mr Berry.
>
> "I wonder how Mr Stanhope, as leader of the so-called new Labor Party, will try to explain this decision.
>
> "I call on him to say whether he has full confidence in Mr Williams and if he does, then he must tell Canberrans why he thinks that this person deserves to be a Minister in a future Labor Government," Mr Smyth said.

Mr Speaker, I table the document for the Assembly.

Election Campaign Tactics

MR WOOD (5.53): Mr Speaker, I have been involved in political campaigns since my teenage years, and sometimes I have had a role in how those campaigns at a local level are run. The campaign against the Labor Party and particularly against Wayne Berry in the last election campaign was the most vitriolic and personal campaign I have seen in all that long period. It really got down to a very low level of attack. The whole campaign was based on a personal attack on Wayne Berry. It was absolutely disgusting.

I do not know whether this is just Brendan Smyth going off half-cocked on his own or whether it is a Liberal strategy that we might expect to be coming—something like the push polling they did some years ago. I do not have much say in what the Labor Party strategy will be in this coming campaign—and I do not particularly seek to—but to the extent that I have any say it will be to say this: "Next time we will not sit back and let it happen. We will not simply talk about policies as we did in the last election for this place." I will recommend that we not sit by and let it go on. I will recommend that we give back as good as we get—or as bad as we get. I will recommend we give back twice what we get, or three times what we get. If that is the campaign the Liberals want to run in this town next time, my recommendation—what the outcome will be, I cannot say—would be to give back many times over what is given to us.

Mr Athol Williams
Election Campaign Tactics

MR MOORE (Minister for Health, Housing and Community Care) (5.55), in reply: My, my, how self-righteous we have become. Mr Wood, you may well recall the attacks Mr Berry started, almost from the day he became Leader of the Opposition, on certain crossbenchers and other members. More importantly, I would like you to think of the year and a half when you and your leader attacked Kate Carnell as having broken the law. Again and again, you asserted that she had broken the law. An absolute lie!

I heard Mr Smyth read out the facts of this matter. If somebody fired by the Labor government from a board has been preselected by the Labor Party, so be it. But to say that this is dirty politics compared to what you guys have done for the last 18 months beggars belief. It is beyond belief the foul tactics that you have used for 18 months to get rid of somebody because she got 2½ quotas. If you do not believe it, have a look at the letter by Jon Stanhope that was reported in the paper. That letter says that his major achievement has been that he got somebody who has done so much for Canberra. And you talk about dirty campaigns!

Question resolved in the affirmative.

Assembly adjourned at 5.56 pm until Tuesday, 5 December 2000, at 10.30 am

ANSWERS TO QUESTIONS

V8 Supercar Race
(Question No 312 (redirected question))

Mr Osborne asked the Chief Minister, upon notice, on 25 September 2000:

In relation to the V8 Supercar race in June 2000:

In relation to (a) race preparation (b) administration and (c) of tasks outsourced in (i) the lead up to the V8 Supercar race, (5) on the weekend of the race and (iii) in the weeks following the race: what were the actual itemised costs to the Territory for the use of (A) staff, (B) equipment and (C) any other associated overheads, including costs of outside contracts, from the following ACT Government agencies:

(1) ACT fire and emergency services including the police (including police on duty for the race weekend and police directing traffic in the lead up to the race and including preparations by emergency services in advance of the race);
(2) Totalcare;
(3) Cityscape;
(4) Chief Minister's Department.
(5) Department of Urban Services; and
(6) Any other agency.

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

The total cost to the Territory in relation to the V8 Supercar race in relation to race preparation, administration, tasks outsourced before, during and after the race for the use of staff, equipment, and other associated overheads, including costs of outside contracts is $8.8 million.

In addition, capital expenditure for the event was $4.5 million.

The following costs, have been paid by the Canberra Tourism and Events Corporation to the following government agencies in the lead up, during and after the V8 Supercar race.

(1) ACT Emergency Services:	$26,485.46	
(2) Totalcare:	$49,937.00	
(3) Cityscape:	$35,272.00	
(4) Chief Minister's Department:	$2,950.00	
(5) Department of Urban Services:	Nil	
(6) Any other agency:	(See below)	
•	ACTION	$71,475.00

The costs invoiced by Government agencies stipulated above are included in the total expenditure cost of $8.8 million.

LITERACY AND NUMERACY OUTCOMES IN GOVERNMENT SCHOOLS (Question No 313)

Mr Berry asked the Minister for Education, upon notice, on 25 September 2000:

In relation to the recent telephone poll on school 'league tables'—

1. How many people were polled;

2. What is the demographic breakdown of those polled;

3. What were the questions asked., and

4. What were the responses.

Mr Stefaniak: The answer to Mr Berry's question is:

1 500.

2. All respondents were the parents or carers of a child or children attending an ACT Government schools. Available demographic data is provided:

Respondents			
Female	346	Male	154
Respondents - Teacher/P&C Member/School Board/Other			
Teacher	43		
P&C Member	56		
School Board	15		
Other	397*		
*Some respondents belonged to more than one category.			
Education Level of Respondent			
Up to Year 10			74
Year 11 /Year 12/Some University/TAFE			149
Degree/Diploma			200
Post Graduate			72
Other			5
Household Income			
$29,999 or under	56		
$30,000 to $59,999	119		
$60,000 to $79,999	106		
$80,000 and over	157		
Did not answer	62		
Number of Children at Government School			
1 child	238		
2 children	194		
3 or more children	68		

3. See attached questionnaire from Roy Morgan Research.

4. See attached Roy Morgan Research report "Reporting on Literacy and Numeracy Outcomes in ACT Government Schools—Telephone Survey" of September 2000. A copy of this report will be provided to all MLAs and interested stakeholders.

WINE INDUSTRY—ACT GOVERNMENT INCENTIVES
(Question No 314)

Mr Stanhope asked the Chief Minister, upon notice, on 25 September 2000:

In relation to the development of a local wine industry:

(1) What incentives were offered to BRL Hardy Limited to establish the Kamberra Tourist Centre.

(2) What was the value of those incentives.

(3) What was the cost to the ACT Government of the site development work.

(4) How many permanent jobs have been created as a result of the development.

(5) How many hectares of vineyards are planted in the ACT.

(6) How many hectares of vineyards in the ACT:

(a) has BRL Hardy Limited planted; and
(b) does BRL Hardy Limited plan to plant in the next two years.

(7) Has the Government, or will the Government, contribute to the cost of these plantings.

(8) Where will BRL Hardy Limited obtain the water necessary for irrigating these plantings.

(9) What price will BRL Hardy pay for the water.

(10) What is the basis of the statement in the Chief Minister's 1997-1998 Annual Report that a "conservative estimate of the economic benefit of every $1 spent on wine development is that an extra $0.60 is spent in the wider economy"

Mr Humphries: The answer to Mr Stanhope's question is as follows:

(1) What incentives were offered to BRL Hardy Limited to establish the Kamberra Tourist Centre.

BRL Hardy was offered an assistance package totalling $2m. The package comprised:

land valued at $980,000 for the tourism facility. BRL Hardy has invested $8.5m in developing the facility.
$0.5m towards development costs of the site, including internal roads and access, service connections, agreed site works and the Preliminary Assessment and Development Control Plan;
a waiver of payment of stamp duty on the Lease; and the facility to apply the balance of the $2m assistance package to the second stage of the project.

(2)What was the value of those incentives.

The incentive package was valued at $2m.

(3) What was the cost to the ACT Government of the site development work

The cost to the ACT Government was $0.5m towards development costs of the site, including internal roads and access, service connections, agreed site works and the Preliminary Assessment and Development Control Plan.

(4) How many permanent jobs have been created as a result of the development.

The permanent jobs created include:
Four positions in the vineyard developments;
Three positions at the Kamberra Facility;
Four permanent/part-time positions at the Kamberra Facility;
Four positions in the Bistro; and
10-15 positions to be created with the opening of the winery in 2001-2002.

(5) How many hectares of vineyards are planted.

The Vine Improvement Working Group of CDWIAG (Canberra District Wine Industry Advisory Group) commissioned a Vine Inventory Survey last year. The results of that survey indicate that there are over 330.96 hectares of planted grapevines in the Canberra District. Of this total area 66% of grapevines are red varieties and 33% are white varieties. The ACT was not distinguished in these figures.

(6) How many hectares of vineyards in the ACT:
(a) has BRL Hardy Limited planted;

BRL Hardy has 40 hectares planted and by the end of 2000 will have another 45 hectares in the ACT at Holt.

(b) and, does BRL Hardy Limited plan to plant in the next two years.

BRL Hardy is partnering with local and regional growers to plant further vineyards over the next two years to bring their total area to around 250 hectares in the region.

(7) Has the Government, or will the Government, contribute to the cost of these plantings.

The Government will make no contribution to the cost of these plantings.

(8) Where will BRL Hardy Limited obtain the water necessary for irrigating these plantings.

The vineyards will be irrigated by treated wastewater from the Lower Molonglo Treatment Works.

(9) What price will BRL Hardy Ltd pay for the water

A business agreement has been negotiated between ACTEW and BRL Hardy for the supply of grey water. The agreement is a commercial one and is confidential.

(10) What is the basis of the statement in the Chief Minister's 1997-1998 Annual Report that a "conservative estimate of the economic benefit of every $1 spent on wine development is that an extra $0.60 is spent in the wider economy."

This is an estimate of the indirect impact on the broad ACT economy that is a result of BRL Hardy's direct investment in wine development. The ratio of direct to indirect benefits comes from ABS industry multipliers and the ACT Input/Output Economic Model.

The establishment of BRL Hardy is a significant incentive for the further development of the wine industry in the region. Grape growers now look forward to the availability of a local facility in which grapes can be crushed at a competitive rate.

OLYMPIC FOOTBALL SURVEY FORMS
(Question No 315)

Mr Quinlan asked the Chief Minister, upon notice, on 10 October 2000:

In relation to the Olympic football survey forms distributed by the firm Barbara Davis and Associates:

1) Given the unique nature of Olympic football, what useable information can be gathered from these surveys other than that which would be used for the purpose of political point scoring at taxpayers expense.
2) How much money was paid to the firm Barbara Davis and Associates for this exercise.
3) How many survey forms were (a) distributed; and (b) returned.
4) What proportion of the total attendance at all Olympic football matches does this figure represent.
5) On what days was the survey conducted.

Mr Humphries: The answer to the member's question is as follows:

1) The survey was conducted on people attending the Olympic Football events in Canberra to obtain information on the origin of people who attended the games, their satisfaction with the various aspects of the games, the Stadium, and transport, and the expenditure of people coming to the events from interstate or from overseas. This information will be used for assessing the satisfaction of people attending the event, refining assumptions on expenditure by international visitors, and for planning future events at the Stadium.
2) Total cost of the survey is $38,005. A progress payment of $17,275 has been made with the balance to be paid shortly.
3) (a) There were 6,008 survey forms distributed. (b) There were 2,450 survey forms returned.
4) This represents 6.5% of all ticket sales given a survey form, and 2.7% who returned the form.
5) The survey was conducted on all days on which Olympic football was held in Canberra.