DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

14 February 2001

Wednesday, 14 February 2001

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A quorum being present, **MR SPEAKER** (Mr Cornwell) asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Proportional Representation (Hare-Clark) Entrenchment Amendment Bill 2001

Ms Tucker, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MS TUCKER (10.32): I move:

> That this bill be agreed to in principle.

Mr Speaker, when the federal government granted the ACT self-government in 1989, it gave the ACT two key features in its electoral system that are fairly uncommon in state parliaments: a proportional voting system and fixed election dates. These features were seen as being at the forefront of democratic electoral systems because, in the first case, it would make the composition of the Assembly directly representative of voting patterns in the community. In the case of fixed election dates, it would prevent the government of the day choosing an election date that suited itself and thereby giving itself an unfair advantage over its rivals.

Unfortunately the proportional voting system that was first given to the ACT, the d'Hondt system, turned out to have a number of flaws and there were soon calls for it to be replaced. This led to the ACT's first referendum in 1992 on a new voting system, at which the Hare-Clark system received majority support over single member electorates.

In 1994, Mr Humphries presented to the Assembly the Proportional Representation (Hare-Clark) Entrenchment Act to entrench the results of the 1992 referendum. Entrenchment is a term that comes from the Commonwealth's ACT (Self-Government) Act. It means prescribing in legislation restrictions on the manner and form of making, amending or repealing particular laws, such as prescribing the need for a special majority of the Assembly or a referendum. The principle behind entrenching laws is that, once passed, they are not easily changed, except by broad agreement across the Assembly, thus preventing the government of the day from manipulating these laws to its own advantage.

In relation to the Proportional Representation Entrenchment Act, it is interesting to repeat what Mr Humphries said about the significance of entrenching our electoral system. He said that his bill will make clear that the Assembly:

> … is of the view that the issue of our electoral system, which is the fundamental machinery of our democratic process, is to be put above politics and is not to be susceptible to manipulation on the basis of a perceived political interest or advantage to be gained by a particular change to that system.

A second referendum to seek community support for the Proportional Representation Entrenchment Act was held at the time of the 1995 election and was passed. The act includes a list of principles which our electoral system should comply with. Curiously, it did not include the other key feature of our electoral system, which is the fixed election date. In looking back at the debates of the time, one gets the impression that there was so much argument about what our voting system should be that the fixed election date was overlooked. There seemed to be a general assumption that this was not an issue that needed to be debated—that everyone thought it was a good idea.

This all changed last year after the Auditor-General released his damning report on the redevelopment of the Bruce Stadium and it appeared that the former Chief Minister had lost the confidence of a majority of the Assembly. The proposal was put up by Mr Osborne—and seriously considered by the government, I believe—that an early election should be brought on to resolve the issue, despite the tradition of fixed election dates in the ACT. This was also despite the provision in the self-government legislation for the Assembly to be able to vote for a new Chief Minister if it lost confidence in the current one. There was no legitimate need to bring on an early election and the crisis was resolved the way that the self-government legislation envisaged, through the appointment of a new Chief Minister.

However, this incident brought to light that an early election could in fact be brought on by an amendment to section 100 of the Electoral Act by a simple majority of the Assembly. Conversely, it would also be possible to extend the period between elections through the same means. This seems quite contrary to the spirit of the original self-government legislation and Mr Humphries' Proportional Representation Entrenchment Bill.

It should be pointed out that it is possible to have an early election if the Assembly becomes ungovernable. Under the self-government act, the Governor-General can dissolve the Assembly and order an early election if he or she is of the opinion that the Assembly is incapable of effectively performing its functions or is conducting its affairs in a grossly improper manner. An early election can also be held if the Assembly passes a resolution of no confidence in the Chief Minister and does not elect a Chief Minister within 30 days. However, the situation last year with Mrs Carnell had certainly not reached the stage of making the Assembly ungovernable, so bringing on an early election by amending the electoral act would have been opportunistic and a distortion of the self-government act.

My bill therefore inserts into the Proportional Representation Entrenchment Act the provision that any law that relates to the day on which an ordinary election of members is to be held is also entrenched. If my bill comes into effect, the current fixed election day will not be able to be changed without the support of at least a two-thirds majority of members or a simple majority of members and a referendum, as is the case with the other features of our electoral system that are covered by the entrenchment act. This entrenchment would not prevent the election date being changed for administrative reasons, with the broad agreement of the Assembly, which has already occurred once with the move from the February to an October election.

It should be noted that, because I am attempting to amend the existing entrenchment act, under section 5 (1) of that act my bill cannot come into effect unless it is passed by at least a two-thirds majority and a majority of electors at a referendum. If the Assembly passes my bill in the next few months, then a referendum can be held at the time of the next ACT election in October. I recognise that this will entail some cost, but the cost will be marginal above the costs already being incurred by government in holding the election. Of course, I believe that the stability that the fixed election date gives to the ACT political system is worth the cost of a referendum. Certainly the 1995 referendum that entrenched the Hare-Clark voting system must have been regarded by Mr Humphries as a worthy initiative. I look forward to the Assembly's support to entrench the principle of a fixed election day for the Assembly.

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

Public Sector Management Amendment Bill 2001

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

Title read by Clerk.

MR OSBORNE (10.39): The series of public service reforms that swept the country over the past two decades were based upon injecting a greater degree of efficiency and flexibility into the day-to-day business of government. The goal was to produce a public service that was fairly lean, more productive and more responsive to an ever-changing work environment and new government initiatives. To help achieve this goal, academics increasingly borrowed ideas from the private sector. Many of them have worked; some have not.

Two ideas that have gained a stronghold in the public sector nationwide are outsourcing and the removal of senior management from permanent tenure and signing them up on a fixed-term, performance-based contract. Unfortunately, both of these measures have failed in terms of allowing public servants to do what they do best—namely, being a cost-effective instrument of administration that is ready to implement the programs of whatever political party holds power as government of the day. Certainly, there may have been increased achievement under these two reforms, but far too often it has been lacking in quality.

Bungled projects, such as the hospital implosion and the Bruce Stadium redevelopment, highlighted lessons that we, as a parliament, would do well to heed. Both of these projects have been scrutinised at length by independent experts. Not surprisingly, both of those experts, the coroner and the Auditor-General, had fairly similar things to say. They found unprofessional action from public servants at all levels, systemic failures with the way the projects were handled from start to finish, incompetence and unnecessary outside interference.

What had caused such comprehensive failure? How has it come about that our public service appears to have been clear-felled of people with the ability to organise the safe demolition of a building or the partial construction of a football stadium? My examination of these two projects has led me to the strong conclusion that only a deep-

seated change to the structure of the senior levels of the public service will discourage similar failure in the future.

This legislation does not deal with some of the problems caused by outsourcing, which is more of a matter of ACCC constraints, government policy and internal purchasing procedures. However, what this bill does is provide a pathway back to a career public service. This is an important change, as there is a growing body of evidence nationwide showing that performance-based executive contracts can and do hinder the work of executives and the overall standard of governance.

In 1999, the South Australian Auditor-General conducted a performance audit of the executive contract system operating in that jurisdiction. The questions at hand were: are such contracts value for money and what effect (positive or otherwise) do they have on governance?

Some of the Auditor's conclusions were:

> The 'emphasis on accountability and outcomes' may suggest to some that 'process' is no longer an issue. In my opinion, it is important that recognition be given to the need to maintain sound and defensible 'processes' in the achievement of 'outcome/results'. Where there is not proper balance between 'inputs and processes' and 'outputs and outcomes' there is a real risk that all relevant issues will not be adequately considered before decisions are made. Any inadequacy in this regard does not advance the cause of good government.
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> The primary and only duty of those holding public office is to 'properly safeguard the interests of the public'. The obligations of the public servant are in many ways a reflection of the responsibilities of government generally to the public trust. The interests of government do not exhaust the public interest. Any administrative framework which has a negative effect on continuing public confidence in government arrangements is clearly, in and of itself, not in the public interest.
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> The factors necessary as a precondition to the ability to act in the public interest are:
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> - independent judgement;
> - integrity;
> - appreciation of public values;
> - absence of conflicts of interest;
> - respect for constitutional and legislative arrangements;
> - knowledge of the law;
> - freedom from undue influence of any sort.
>
> The presence of all these factors will not guarantee that a public servant will act in the public interest, but the absence of any one of these factors will call the integrity of the whole administrative framework into question.

The Auditor includes a quote from a study undertaken in 1997 for the Institution of Public Affairs (ACT Division) that had interviewed over 20 past or serving Commonwealth government secretaries. The authors of the report concluded:

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- limited terms have produced some insecurity and uncertainty for departmental secretaries;
- it could not be said that a secretary would not be unaffected by some speculation of future prospects;
- employment conditions may increasingly emphasise short-term perspectives when providing advice;
- in the last year of a contract the authority of a secretary could decline making him or her a lame duck compared with the authority of more permanent heads;
- the introduction of fixed terms has made the pool of possible secretaries either think twice about the benefits of promotion or look much earlier at the prospects of private sector employment.

The South Australian Auditor then concluded:

> No government can say with confidence that the absence of the security of, at least, the contractual term engagement free from the threat of removal without cause, is not a factor in influencing a chief executive in the performance of his functions.

The former New South Wales Auditor-General, Tony Harris, conducted similar performance audits in 1998 and wrote extensively in both 1998 and 1999 about the numerous problems that he found. Harris found, in part:

> The NSW Government was one of the first in Australia to reform its senior ranks of the public service by placing them on contracts. The aim of the reform was to attract more skilled senior staff, especially those with private sector skills, and to reward them in a way which recognised the increased skills required and increased risks they face.
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> There are several inherent problems with the senior executive service reforms. Members of the senior executive service are now seen as the employees of the minister—rather than of the independent employer public service board—and ministers in their dealings with senior executives cannot always be relied upon to distinguish between management and political goals. If there was a danger before, it is now even more likely that the senior executive service would more closely identify with the political goals of the government of the day.
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> [The 1998 audit], the most extensive identified research into any senior executive service, found that:
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> - political factors strongly influence advice of chief and senior executives;
> - these executives acknowledge the increasing shift towards public service politicisation;
> - [some] executives [have been] removed for reasons other than performance;
> - there is a conflict between the day-to-day dealings of these executives with their ministers and the government's formal code of conduct.
>
> The most important recommendation made in the report of the performance audit was to separate ministers from their employer role by establishing a new, statutory employer for chief and senior executives which is independent of government .

In short then, both the South Australian and New South Wales Auditors-General have found ample evidence showing that fixed-term, performance-based contracts produced political appointments who were open to being strongly influenced by political factors

rather than the public interest as they went about doing their day-to-day tasks. They found that this combination had definite negative effects on governance. Our independent experts, the coroner and Auditor-General, found similar failings within the senior levels of our bureaucracy.

Let us briefly consider some of the history of the public sector in Australia, especially the Commonwealth public service, and the traditional Westminster-style role of public servants.

The lazy, overpaid bureaucrat has been the butt of jokes for so long that the image has almost become part of Australian culture. Nonetheless, I believe that this image is false. I am sure that such people have existed and probably always will, but I accept that they are few and there are certainly not enough to substantiate the image. Public servants make convenient scapegoats while they go about their business of implementing government policy (such as increased fines, rates and taxes) and are easily blamed for the ever-rising cost of public expenditures. For too long they have had to unjustly wear the label of contributing nothing to production and the well-being of society.

The fact is that public servants are no different from other members of Australian society and in a crowd are indistinguishable. What differentiates them is their employer, the place where they work and the duties they perform. Even in these respects the differences are more imagined than real. The conditions of employment in a public service are little different from those of comparable occupations. Government workplaces are found in buildings very similar to other workplaces except that the Australian flag—or in our case an ACT flag—flies overhead. The nature of much of the work performed in the public service is exactly the same as that of work performed in private employment. I am sure there are conflicts, rivalries and hatreds as well as friendships, loyalty and cooperation. Public servants have their good days as well as their bad, and, accordingly, are affected by what goes on around them. Their job is to either carry out the policies of the government of the day, or to assist in the formulation of policies as required, regardless of personal political beliefs.

In 1974, after just over seven decades of operation, a royal commission was established to review the Commonwealth public service. A year later the royal commission established a task force on efficiency to further investigate the service and to make specific recommendations for change.

In its first report entitled *Toward a more efficient Australian Government Administration* the task force tabled an initial 50 recommendations to "revamp the whole system", as it was described. The report recognised the common public perception of the service: one of numerous, inefficient officials lacking in productivity; and of governments becoming increasingly critical of the speed with which their policies were being implemented—and who had demanded change.

The report said that the public services in Australia worked "too sluggishly", that technology was passing them by as they "clung to the old ways", and that they could not retain their competent staff. However, little mention was made in the report of the lack of the criteria with which to measure the efficiency of the public service in the first place; nor of the dwindling resources being allocated to the service by successive Commonwealth governments. The public were vocally discontent, the service was seen

as elitist, and the federal government of the day was frustrated. In other words, public servants were an easy target.

The task force came up with four general "failings" of the Commonwealth public service, which I could summarise with one simple phrase: the service was generally cautious in its approach. The task force preferred to refer to the service as being "arrogant", "insensitive", "indifferent" and "stubborn", and recommended five actions to prevent such attitudes, three of which are relevant to this debate. They were that: (1) "senior officials be deprived of guaranteed tenure and placed on a contract basis of competence system"; (2) "senior officials demonstrate their capacity for innovative management before their appointments"; and (3) "proven maladministration, as cited by official reports, court decisions and justified complaints, to constitute misconduct, liable to penalty and removal from office".

In other words, the push was on for senior public servants to think and act outside the box. In theory, senior officials with this quality would be identified, and then employed on a performance-based contract (with a big increase in salary as an incentive) with more of the responsibility for actions of the department being transferred from the minister to themselves. If things went well, the minister would still be able to take the credit (as in the old days), but, if things went wrong, it was goodbye public servant instead of goodbye minister.

Endorsed by the royal commission, this type of management structure has become entrenched in senior levels of all public services in Australia, including the ACT. I still remember being a somewhat bewildered new member when asked to support such a change to our public service in 1995. My office had a number of briefings and, on the face of it, the theory seemed sound enough, so I gave it support. It is a fine theory, but with the benefit of hindsight I can see that in practice it has been an unmitigated disaster.

I regret having ever supported the change and intend to do what I can to right the wrongs of this flawed management system. Before she left office, our former Chief Minister, Mrs Carnell, publicly stated that my concerns about fixed-term, performance-based contracts were only imagined. However, on the evidence, and with the support of recognised independent experts, I strongly disagree. Mrs Carnell's support for the current contract system was mainly centred on two arguments: firstly, that every other government in Australia has this system and, secondly, it would require our senior public servants to take a 10 per cent pay cut, a 10 per cent rise having previously been awarded to compensate for their loss of tenure. Frankly, her first argument was just nonsense; and I am still waiting to hear the downside of the second.

John Walker, the architect of our present bureaucratic structure, often made the comment that the territory "should be run like a corporation". I disagree. It is admirable for a government to be businesslike, but government is not a business. If it were, there would be no need for it. It is important for government to run efficiently and to be innovative, but there is a broader public interest that overrides all that the public service does. Government is about creating an environment which is healthy to live in; where people can get jobs; where their children can get a good education; where there is justice; where there are good health services and public transport; and where assistance is available for those who, for whatever reason, find themselves in hardship or difficulty. Government requires true leadership, a strong sense of duty and responsibility, the nurturing of public trust, and the installation of an efficient and accountable administration—not the creation of Corporation ACT.

I wish to comment briefly on extracts from two books about the traditional career public service. The first is from *Career Service* by Gerald Caiden. His study of the history of the Commonwealth

public service found that the seven foundational principles of the service which were incorporated into law were:

1. Standardisation of conditions of employment.
2. Administration covering uniform conditions of employment, recruitment, and promotion by an independent central agency which is free from political obligation.
3. Recruitment by open competitive examination wherever practicable.
4. Promotion by merit—while practice often tended to favour senior officers, this was offset by the development of appeal procedures.
5. Position classification aimed at identifying defined promotion ladders and providing a proper career channel wherever possible.
6. A code of rights and duties.
7. Adherence to career service principles in spirit. A permanent appointment meant a guaranteed full-time career until the age of retirement, provided the officer has not been dismissed for misconduct or retired for incapacity.

I think it is becoming increasingly clear just how much of this foundation has been eroded by our executive contracts system. The second extract is from the book *Politicisation and the Career Service* by Curnow and Page. It states:

> The career service … provide[s] continuity and stability of administration. Political crises may occur in rapid succession, but the security of tenure enjoyed by public servants ensures that essential services continue to be performed. Public servants become the repository of considerable expertise, not merely because of continuity, but also because their appointment and promotion by merit ensures a relatively high level of competence … Overall, the system is more formally rational; more certain and predictable than any other, and possibly more efficient as well. And although the career service does not guarantee the absence of corruption, it does place a premium on professional behaviour.
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> The independent secure public servant, providing impartial advice, can act as a counterweight to balance the more passionate enthusiasm of political masters, whose decisions are, understandably, alleged to be based solely on short-term political gains. A career service is loyal and responsible to the democratically elected government of the day in accordance with the doctrine of the Westminster system.
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> The career service which existed in ... Australia during the mid-twentieth century was remarkable not only for its purity, but also the extent of its coverage of public service positions. Future generations may look back on this period if not as a golden age, then as an aberration in administrative development.
>
> If changes to the career service do not function as intended, then all that will have happened is that one insulated self-perpetuating elite will have been exchanged for another.

Of course, the public service of the 1950s and 1960s had its shortcomings, but nothing like the systematic incompetence which was uncovered by the coroner and the Auditor-General in the last two years. I would ask members to examine this second extract at length. However, it is on the final sentence that I would like to focus. Let me read it again:

> If changes to the career service do not function as intended, then all that will have happened is that one insulated self-perpetuating elite will have been exchanged for another.

In light of events in the past five years in the ACT, and in looking around the country, I could not agree more.

Before I cover the contents of the bill in some detail, I would ask members to consider this final comment from one of Britain's most able Labour ministers, Herbert Morrison. Compare his description of an effective bureaucracy with the "can do" system provided by our current executive contract structure. Morrison said:

> Civil servants take enormous pains to give a minister all the facts and to warn him against pitfalls. If they think the policy he contemplates is wrong they will tell him why, but always on the basis that it is for him to settle the matter. And if the Minister, as is sometimes the case, has neither the courage nor the brains to evolve a policy of his own, they will do their best to find him one, for, after all, it is better that a department should be run by civil servants than it should not be run at all.
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> It was my task … to change the policy which had so far been pursued by the Ministry of Transport. We argued it all out; we examined all the 'snags' which the civil servants found for me and which I found for myself in plenty; but at the end of the discussions, when I made it clear what the policy was to be, the civil servants not only gave their best to make my policy a success, but nearly worked themselves to death in labours behind the scenes in the conduct of various secondary negotiations. Responsibility for policy rests upon Ministers whether they are weak or strong, and it is important that the civil servants should be the instruments and not the masters of the policy. They would have been just as loyal to the Conservative Ministers, and that is well.

The traditional career service that has been much maligned by progressive academics in recent years appears to have had a lot going for it. One of its strengths was an ability to get the right people into the right job, and give them the right training and tools to do their job. This bill attempts to restore, and then enhance, that principle. I believe that in such a working environment people will naturally perform well without the need to continually threaten their employment or pay packets in the process.

I now turn to the bill itself. It intends to achieve two goals: (1) to bring greater transparency and accountability to the employment regime for senior executives; and (2) to return to the traditional concepts of a career public service. Like the traditional career service, the focus is to get the right people into the right jobs, and then give them the right training and tools to do their job.

The bill contains three main initiatives. The first main initiative is the creation of a senior appointments commissioner, whom I will mainly refer to as the commissioner. This person would oversee the employment of all senior executives in our public service. Our

public service already contains a Public Administration Commissioner, but this person has no proactive role in the employment process.

The senior appointments commissioner would be chosen through a process involving both the Chief Minister and an Assembly committee (most likely the public accounts committee). The Chief Minister would forward a nomination to the committee. If a majority of the committee were in agreement, the appointment would be made. If a majority of the committee did not agree, the Chief Minister would then put forward an alternative candidate for consideration. Members may recognise that this process is the same one used to appoint our Auditor-General.

The term of appointment would be seven years, with the conditions of employment fixed by the Remuneration Tribunal. The successful candidate would be eligible for reappointment, and the positions of senior appointments commissioner and Public Administration Commissioner may be jointly held by the same person. The senior appointments commissioner would be charged to work independently of government and have input into all aspects of the employment of executives at all levels, including hiring, transfer and removal from office. From time to time, they would also be responsible for reviewing the functions of each department's chief executive and producing an annual report for the Assembly.

The second main initiative of this bill is establishing a new process for the hiring of chief executives. This process has four stages. *(Extension of time granted.)* Stage 1: the senior appointments commissioner advertises a vacancy and prepares a list of candidates in order of merit. Candidates must be selected on their merit and have certain legislated capabilities. This list is then forwarded to the responsible minister.

Stage 2: The minister could either approve a candidate from the list or reject all candidates. If all candidates on the list are rejected, the commissioner would then prepare another list of candidates for consideration. Stage 3: If approved, the minister forwards the candidate to an Assembly committee, most likely the PAC. The committee considers the candidate and, if approved by a majority of its number, notification is sent to the Chief Minister. The committee would also send a report to the Assembly. If the committee rejected the candidate, the minister would select an alternative candidate for consideration. Stage 4: Once a candidate has been approved by all three bodies, the Chief Minister would then make the appointment.

I would like to pause here briefly to explain my reasoning behind involving an Assembly committee in the process of employing a chief executive. I will understand some reluctance by the major parties to accept stage 3, but I believe this is a matter of transparency and accountability. The employment of a chief executive is a serious matter and deserves more attention than has been apparent in recent years. I believe that requiring the approval of an Assembly committee is a positive step and should not be misinterpreted as an unworkable hindrance to the government of the day.

Obviously, good and competent candidates with an interest in serving the public interest will be approved by this process. However, obvious political nominations may not. It is not intended for this committee process to be handled in the American way, with a series of public hearings and general hoop-la. This phenomenon has not occurred when the public accounts committee has previously been involved in appointing the Auditor-

General, so there is no reason to believe that will change. Instead, I envisage a discreet consideration of the merits of a candidate to do an excellent job in running a department, whoever was in government.

Gaining committee approval would not mean that the committee was to blame should a successful nomination ever make a mistake or perform poorly. The committee is helping to select a person to do the job, not sign off on every decision that that person would then go on to make. The public accounts committee already has a say in the employment of the Auditor-General and, I am sure, does not hold its breath every time the Auditor opens his mouth. The public accounts committee comprises a member each from the government, the opposition and the crossbench—a good balance of people that, in my time as a member, has worked well together and is capable of making sensible and balanced decisions.

Just as the commissioner, the minister and an Assembly committee must all agree on an appointment of a chief executive, all three must agree on such a person's removal from office, which is possible under very strict and defined terms. Although chief executives would be given a specified period of employment for a position, say up to five years, they would be given a permanent position in the ACT public service. Their terms and conditions of employment would be fixed by the Remuneration Tribunal.

Once employed, the commissioner would continue to play a role in their career. The agreement of the commissioner would be required before the chief executive was ever appointed, transferred, redeployed or declared unattached. This is both to provide continuity and to protect the official from losing their job altogether because of ministerial disfavour. The bill is flexible, however, in providing a mechanism to ensure that a minister has a chief executive that they can work with. Chief executives currently under contract would be able to fulfil the terms of their contract; however, once off contract they would be reappointed only with the joint approval of the commissioner, the minister and the Assembly committee.

One of the functions of each chief executive would be, in consultation with the commissioner, to employ executives who together would comprise a senior executive service. In this role, the chief executive would be required to work independently of government. Appointments would be merit based and required to measure up against specified legislated capabilities.

As with chief executives, executives would be given a specified period of employment for a position, and they would be given a permanent position in the ACT public service. Terms and conditions of employment, once again, would be fixed by the Remuneration Tribunal. Also as with chief executives, the agreement of the commissioner would be required should the minister seek to re-appoint, transfer, redeploy, or declare an executive to be unattached. Executives currently under contract would also be able to fulfil the terms of their contract; however, once off contract they could be re-appointed only with the joint approval of the chief executive and the commissioner.

The third main initiative relates to training for executives. The commissioner, in consultation with the chief executives, would be charged to develop the senior executive service so that executives, and potential executives, are appropriately trained to achieve the highest standards of efficiency and management in the service. Chief executives must

comply with any reasonable request by the commissioner to release employees for training—up to 15 days per year.

This bill does not wind the clock all the way back to the 1950s but it does buck against the trends of the past two decades. Some ideas and structures can work equally well in both the private and public sectors. Unfortunately, the executive contract system does not. It is flawed, it does not serve the public interest and, as such, needs to be replaced.

I would like to thank John Uhr, from the Australian National University; former New South Wales Auditor-General, Tony Harris; and obviously my staff, in particular, for their invaluable assistance in the drafting of this legislation. I would also like to thank Nick Horn from the Office of Parliamentary Counsel, who drafted the bill.

I commend this bill to the Assembly and move:

> That this bill be agreed to in principle.

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

Land (Planning and Environment) Amendment Bill 2000 (No 5)

Debate resumed from 29 November 2000, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (11.07): Mr Speaker, it will come as no surprise to many that the government will be rejecting this bill. The government believes that clarity and accountability in decision-making on the issue of remitting or increasing the change of use charge are of vital importance. Mr Corbell's bill does not do that. It proposes to confirm the operation of a 100 per cent charge and then to split any remissions of that charge between the act and disallowable instruments. That contrasts starkly with the current situation, in which the regulations contain all of the remissions and the increases in the charge. The government has always opposed the 100 per cent change of use charge. We would take it lower but would be happy if it stayed at 75 per cent.

Mr Corbell's proposal is that determinations for remissions will also relate to a thing called "stated land". This concerns me, because that expression lacks clarity. What is stated land? However, this does not concern me nearly as much as the proposition that remissions, under Mr Corbell's scheme, would be discretionary. Not only would the decision to grant the remission be discretionary but so would the amount to be remitted under the instrument.

There is a further lack of clarity in the transitional provisions. The proposed section 184CC refers to applications made but not effected before the proposed amendments commence. Does this mean a lease variation that has been approved, executed or registered? We need to know when this deadline falls due.

Perhaps the most concerning aspect of Mr Corbell's bill is that it achieves nothing. None of the promises he made to this Assembly on 7 December have been delivered in what he has put forward here. On that day the Assembly decided that the rate of change should not remain at 75 per cent but should go to 100 per cent from 31 January this year. That day has come and gone, but still Mr Corbell's very specific way of remitting change of use charge is not evident. Where is the targeted tool for specific policy outcomes that he referred to in September? Where are the specific policy-related proposals? They are not here, unless stated land is that target.

This bill takes the two existing remissions, changes one and then puts them into the act. Members should note that the Commissioner for Housing, under Mr Corbell's and Labor's proposal, would pay only 75 per cent change of use charge rather than the current longstanding 50 per cent. They speak about supporting public housing, yet they are going to make sure that added money is spent not on the tenants but on change of use charge.

We have a quite different system for providing for other remissions. They are to be determined by instrument. It seems that those instruments could say just about anything, because there is no guidance in the proposed legislation about what remissions might be granted or for how much. The proposal does not go forward as we were promised. It simply heightens the existing confusion that the government has been trying to secure this Assembly's agreement to remove.

All the remissions and increases should be found in one place, not some in the act and some in disallowable instruments. This act does not have an appropriate location for a few examples of the wider range of policy decisions. Therefore, if it is not in the regulations, all remissions and increases should be disallowable instruments, not some in the act and some out of the act.

Further, the instruments then should provide for mandatory remissions or increases, as this Assembly has accepted on numerous occasions in the past, providing for discretion in this area, particularly as the amount involved creates confusion and the exercise of discretion will always be open to challenge, whether that be political or legal. For example, the proposals for residential redevelopment at any local centre may attract a charge of 50 per cent, whilst proposals for dwellings on service station sites being redeveloped should, and do, attract a 100 per cent charge. Two blocks side by side in a local centre will attract different charges or different remissions in an attempt to achieve the same purpose. What Mr Corbell proposes is unclear.

As members would be aware, the government is committed to a rate of charge of 50 per cent. We have said that, but we accept that the Assembly is not willing to move that far. However, if it was to remain at 75 per cent, that would be appropriate, would offer certainty and stability, and would remove the ever-changing sunset clause. I will be bringing forward amendments—I think they are being distributed now—that will secure 75 per cent, remove the sunset clause and give certainty to something that has been a moveable feast over the last 10 years.

At best, Mr Corbell proposes only a basic framework on which to build a regime of targeted remissions of change of use charge. Not only does his bill fail to achieve anything that is not already available under the act; it does not propose any targets. Even

the Civic revitalisation policy, which I think the Labor Party has been quite supportive of, is ignored by this bill. His supposed vehicle for change is only at the chassis level and he needs to do more work on it. Something hurriedly presented because he got caught unawares does not meet the promises he made to this place last year.

Mr Corbell: What about your promises? Where is your legislation? You do not have any legislation on the table at all.

MR SMYTH: The government has always had a position on this, and the government has not been idle on the matter. I can point out the work that the department has done previously and is continuing to develop. We will be presenting a full package shortly.

Some of the incentives that would be directed at achieving a number of policy objectives include supporting the continuation and growth of existing local centres and the provision of additional dwelling opportunities wherever appropriate; responding to changing business needs in areas other than local centres in a timely manner, as well as reducing unnecessary administration costs; encouraging changes of office space to residential or commercial accommodation in Civic to reduce the vacancy rates, as well as revitalising the city centre; encouraging the development of additional dwellings in designated redevelopment areas in and around centres where the accessibility to the services, the shops and employment is high; encouraging the development of accessible and adaptable housing; encouraging the development of older persons housing; and encouraging the implementation of local and group centre master plans where a plan has been prepared in consultation with the community to encourage the implementation of change at more accessible locations.

The government's position has always been clear. We have always thought that 75 per cent or less is what the change of use charge should be. I accept that the Assembly will not move below 75 per cent, but today we have the opportunity to lock in and give the industry and those who seek to develop clarity about what they must do. Mr Corbell's bill does not do that. This is a rare opportunity to restore some sense to the development charging system. I would urge members to reject Mr Corbell's bill as a half-baked attempt and to support the amendments that I will propose to give certainty and clarity so that once and for all we can end the debate on change of use charge.

MR KAINE (11.16): I am pleased to see this matter on the agenda for debate today, because it has concerned me for some time that, almost by default, almost without any debate, we allowed the percentage of betterment tax to increase to 100 per cent. I was waiting for the government to attempt to correct that, which I believed to be an error and an anomaly. By Mr Corbell bringing on his bill today, it allows the government to do what, in my view, they should have done before now.

In the absence of any activity from the government, it was my intention to support Mr Corbell's bill, because at least it would gave the minister some power to vary the percentage where he thought it was warranted. That would be better than a flat 100 per cent rate that could not be changed by anybody. I thought that Mr Corbell's initiative at least gave the minister the option to apply a different rate under specified circumstances if he thought it was warranted.

However, in my mind that is a second best alternative, because I believe that a 100 per cent rate is a punitive rate. It seems to rest on the assumption that the betterment tax rate is the only way in which the community receives a return for investment in assets in the territory. Of course that is not true. Once a block of land is redeveloped and a higher use is applied to it, then the government reaps a higher rate of tax return, from business taxes of all kinds that apply to a highly developed block as opposed to one, for example, that has only a single residential unit on it. So it is not true to say that the only way the community can be compensated for the increased value of a property is through the betterment tax.

On the other hand, I think there is some validity to the argument that 100 per cent betterment tax works contrary to the redevelopment of sites which otherwise can fall into disrepair and disuse, with no reasonable return to the community at all. There has been some dispute about the extent to which that is true, but I think there is an element of truth to it, and I would much prefer to have a rate which could not be seen to be discouraging redevelopment than to have one which led to those people who want to spend their money to improve the city to argue that it is not in their interests to redevelop, because of the rate of betterment tax. That is a specious argument. We should clarify the situation and remove that basis for argument and disputation.

Mr Smyth is bringing forward an amendment which reintroduces the 75 per cent rate, which I think is a fair and equitable rate for everybody. As I say, I think it is something that the government should have done rather than allowing the sunset clause to pass and the 100 per cent rate to apply. They are now doing it. I prefer that approach to the one proposed by Mr Corbell, because it is not a matter for discretion by the minister.

Although Mr Corbell's proposal is a non-preferred alternative, it is at least an alternative to the 100 per cent, but it still leaves it in the hands of the minister make a determination in particular circumstances. I much prefer the clarity of a specified rate. There is a certainty about it. Everybody knows what rate is going to apply if a development is proposed, it is in the interests of the community. It is in the interests of those people who are going to spend their money on redevelopment proposals, and it makes for more certainty in the long term for the redevelopment of those parts of Canberra which in some cases at the moment need redeveloping. There will always be some parts of Canberra that need redeveloping as there is a decline in the condition of buildings, as land use changes and as the focus of business activity moves from one place within Canberra to another. We see this, for example, in some of the old shopping centres which are now struggling to survive. Money should be spent on them to revitalise them, but in some cases it is not forthcoming. A 100 per cent betterment tax discourages redevelopment of areas like that.

On balance, although it is a belated action by the government and by the minister, I prefer the approach now being taken by the minister over the non-preferred alternative that Mr Corbell is putting to us, and I will support the government's amendments.

MR QUINLAN (11.22): Because of what has been said, it is necessary to defend 100 per cent change of use charge. First, I would like to observe the obvious. A prime determinant of value land is its approved use, and that approval process belongs to the community. It is not a gift that should necessarily befall particular individuals by some sort of random action.

If a block of land in a community is to be redeveloped and the use changed, generally the party acquiring that block is acquiring some of the amenity that this city offers. That amenity belongs to the community as a whole. Let us assume we are talking about a couple of residential blocks in Braddon that are going to be turned into many more residential units. I have no objection to redevelopment, but what will that developer be selling? He will be selling proximity to the city. He will be selling the amenity of this city. That is a commodity, although not tangible, that belongs to the community. If people, whether it be the developer as the intermediary or the ultimate user of the units, are to gain some of that amenity that is available—proximity to the city and services that not everybody enjoys—then there is a price to that. It is price a payable to the community to be applied for the benefit of the community as a whole.

I recently had come to me the case of a developer in Braddon who had his development knocked back because apparently there is a tug of war between the new ActewAGL and the government as to who augments services.

Mr Moore: Who told you it was a tug of war between the two?

MR QUINLAN: That was the inference. I have spoken to the developer and to Mr John Mackay, the chief executive of ActewAGL.

Mr Moore: And did he verify that?

MR QUINLAN: In his own way. I will explain that bit to you later, if you like. But it is apparent that as land use is intensified there is a requirement to augment the base services within the area. That is a cost generally borne by the city or by the original developer. If one pays market price for a block of land, then one presumes that the services are there. The point to be made is that there is a cost involved in redevelopment, and that cost should not necessarily be borne by the community but should be part of the improvement.

Everybody in this place has been lobbied intensely by representatives of developers and property councils in relation to the change of use charge. Although it does not amount to a lot of money in a given year, it seems to have become some cause celebre that a number of parties wish to continue to debate until it is reversed. Each time I have had a discussion with people involved I have said, "Bring us a case. Show us the numbers. Show us the money. When did change of use charge inhibit redevelopment? When did the city suffer because there was a change of use charge, or because the change of use charge was 100 per cent?" The 100 per cent is the benefit that applies when the land use changes. Either people pay for the benefit they get or the city subsidises the redevelopment. They are the only logical choices.

I am personally not against redevelopment. In Canberra the average number of people per dwelling has dropped from over four to close to 2½, which means that a lot more dwellings are required to accommodate the same population and that choices in relation to residences are changing. It is necessary that the government, or the community via its government, have some control and some influence over how the city develops and the capacity to waive the change of use charge where we want to encourage development.

That is a necessary lever, a necessary influence, for the city to have in its capacity to manage and to plan well.

The commonsense thing to do is to have the 100 per cent change of use charge—because that is equity in relation to the individual and the community—and to give the community the capacity, via its government, to vary that or waive it so that we can redevelop particular areas. If we want to see the west part of Civic redeveloped rather than having buildings marching up Northbourne Avenue, for example, then we might be able to encourage that. We might be able to influence that for the betterment of the city.

I want to respond to one point in Mr Smyth's contribution. He talked about the government encouraging residential development in the city. I have said it before and I will say it again: I think that that was a very poor process. Under that banner, with significant assistance being given, we ended up with a hotel. It is called the Waldorf Apartments, but it is a hotel. And across the road, coincidentally belonging to exactly the same company, is a backpackers hostel. That is not bringing residential development to the city. I only entered into the debate because that seemed to be some defence of what the government is doing. It does not stand up. Waldorf stands as a condemnation of what this government has done and how it has acted and interacted with business over the last couple of years.

May I conclude by saying that this is the most sensible of legislation, because it gives the community the capacity to nudge redevelopment within a sensible plan but still allows market forces to operate. We accept that the large influence on redevelopment in town will be market forces. It will be changing community requirements in relation to the type and style of housing and possibly the need for us to ensure that, with the reduction of population per unit, various areas still have the critical mass to support the services of a community. If in a suburb where there are shops and schools the population has reduced, we may need to intensify to a critical mass to ensure the suburb is viable. As far as the city goes, I think we need an element of control, the ability to influence where development moves. If we give that up, then we are opening the place to straight open development and opportunism. I think we need the leverage.

MR RUGENDYKE (11.32): I do not think it is any real secret that my view is that 50 per cent is the appropriate level for change of use charge. So it will come as no surprise that I will not support something that maintains it as 100 per cent, albeit it with some unclear method of waiver.

I agree wholeheartedly with Professor Des Nicholls, who not long ago put out a very good report on this change of use issue that has been around for some time. It strikes me that after several years of turbulence in the level of the change of use charge Professor Nicholls was brought in as an independent umpire. It also strikes me that some people in this place disagreed with the umpire's opinion, so we are still having the debate.

We note from Professor Nicholls' report that until about 1970, when the change of use charge was at 50 per cent, there was stability. There was a long period of 20-odd years during which there was no change. Everybody knew where they stood and everybody got on with it. After 1970 the change of use charge kept being tampered with. It went up and down. That has led us to this point today.

It will come as no surprise that I will not support Mr Corbell's bill. The minister has some amendments to bring the charge back to a fair compromise of 75 per cent. I will be supporting that.

MR BERRY (11.34): Mr Speaker, when I was first preselected to come into this Assembly in 1988, a line of people started to come and see me to talk about why they should get the people's asset for less than its value, and it has not stopped since. This is not necessarily a criticism of developers. Developers do what they are good at—making money. They have always wanted to be able to get the people's asset for less than it is worth. They have always put the pressure on to do that.

To fold in front of that pressure is something that future generations will not be thanking us very much for. The assets we in this place have charge of are the people's assets. They are not something we can fritter away and forget about. Let us forget the percentage. If it was 100 per cent, developers would want 75 per cent. If it was 75 per cent, developers would want 50 per cent. If it was 50 per cent, they would want 40 per cent. If it was nothing, they would want a subsidy. So let us stop kidding ourselves.

I have listened to all of the debates about this issue from the day I arrived in this place—and before. I have listened to people coming to my office telling me how "we'll all be rooned" if the change of use charge is not reduced. There has not been a scintilla of evidence to support this argument. People will come here because they like it as a place to do their developments, and they will continue to come here if the change of use charge is 100 per cent. If it is set at 100 per cent, the people of the ACT, through this Assembly, will get the added benefit of it.

The argument that the territory will collapse because of a 75 per cent or 50 per cent change of use charge has never been substantiated, in my view. There has never been any firm evidence. In the end developers will do the best they can from a particular development and the change of use charge which applies, and the market will determine the value of the product they sell in due course.

There is no evidence I have ever seen that a reduction in change of use charge leads to a lower cost product. It has never been suggested that a reduction in the change of use charge would be passed on to the consumer. I bet it would not, because the market would still prevail in relation to the cost the developer eventually succeeded in procuring.

We have to make a judgment here about whether we want to give away the people's asset for less than it is worth. Would you give your own block of land away for less than it is worth? Would you give your mother's block of land away for less than it is worth? No, you would not. You should not be giving away the asset of the people you represent for less than it is worth. That is what this boils down to. It is a very simple argument. The charge had all sorts of names which confused people in the community—betterment charge, change of use charge. However, the argument can be distilled down the basics—whether you get full value for the people's asset or whether you give it away for less than it is worth.

I am convinced that a 100 per cent change of use charge, full value for the people's asset, is the way to go. Labor came forward with a regime which would have allowed the minister to dispense with change of use charges at one level or another in special circumstances, which is a sensible way forward. The dispensations are given only in special circumstances which give a particular return for the territory. But to argue that we should have a regime under which only half of the value of the people's asset is procured for the community is just a nonsense. I will bet you that if the Liberals were in office and the charge was 50 per cent they would be arguing for 40, 30 or even less, and the line of developers coming in would be arguing that it should be less again. I come back to my original point. If it was nothing, some developers who would come to this place and say, "We have a marvellous idea for you, but we will need a subsidy to do it."

Let us not kid ourselves about what this argument is all about. It is about the development sector—as you would expect them to do, as they are entitled to do—procuring the best outcome for themselves and their shareholders. Our job is to get the best outcome for the community. That is 100 per cent, full value for the people of the ACT.

MR MOORE (Minister for Health, Housing and Community Services) (11.40): As I rose, I was thinking to myself, "Boy, how am I going to feel agreeing with Mr Berry on these issues?" Then it occurred to me that of course that is not the case. Mr Berry is agreeing with me. I often wonder whether, in 1989 and during the years when Labor was in government, the arguments Mr Berry put were the caucus view or his personal view. I understand how it feels to have a view different to that of the government, although not on this matter. Perhaps Mr Berry has seen the light, as has the Labor Party.

I welcome Labor's position. Of course it is something I have strongly argued for for a long time. Mr Berry was rather eloquent in his explanation of what we are trying to achieve. We are trying to protect the community asset, probably our most valuable asset: the land around us. There is an irony in this that never escapes me. The people who push most strongly for less than 100 per cent change of use charge are the same group of people who, if not themselves landlords, are involved with landlords. No landlord in the territory would consider handing over their right to income in the way that is proposed by some in this chamber—the people to the left of me and the people to the right of me on this bench. As I said once before, the person on the right of me is even further to the right. Nowadays I am starting to worry about my back in this matter.

Mr Berry: The types you have chosen to keep company with.

MR MOORE: Indeed, Mr Berry. I acknowledge that interjection. At times we all choose to run along the lines of people who have different views from us. The art is to be able to respect them and respect the fact that they do have different views.

The point I was trying to make is that there is no other landlord—as that is what we are; we are sitting here making this decision as the landlord—who would give away their right to property in this way. If a tenant improves a property—say, paints it and makes it nicer—is the landlord going to hand that value over to the tenant? Not likely. There is no chance of that. That is not the attitude. In fact, a good business attitude—and one would have thought that this would register with some of my colleagues here on these benches—would say, "We have to make sure we protect our investment fully." It would

also say, "How much more important it is when we are talking about a community asset." We should have a good financial management attitude. That is what Mr Corbell's legislation is about.

It is actually better than that. I think the government has been serious, and I will give some examples. The bill says that you should maintain 100 per cent, but if you have a very good reason for remission, a reason that suits the community, then you should encourage people to do a development that suits the community. We have done that with residential development in Civic. We have done it with shopping centres in the suburbs. They needed a boost; they needed some kind of assistance from government. We could have done it by providing cash up front, but that is more difficult to manage in a budget. We can use the asset to the benefit of the community in this way. Mr Corbell's legislation sets out a methodology for going about it which is acceptable to me. We already do that, and Mr Corbell here has set it out in legislation.

It is about is getting the best use of our community asset—not for the benefit of some private developer, not for the benefit of some small private groups but for the benefit of the community as a whole. We are talking about the tension between the community's interest in the land and somebody who wishes to make more money. Mr Berry asked how often the benefit is passed on. We know that it is rarely passed on.

We all make decisions about the way the tension is resolved. Mr Corbell, I believe, has correctly gathered that tension. I have circulated one small amendment. Mr Corbell has spoken to me about this before. I apologise that I did not pick it up earlier. The Commissioner for Housing remission should be 25 per cent. Why would you do that? It is clearly in the community interest to assist in public housing. Historically, it has been 50 per cent until relatively recently. My amendment simply brings it back to the historical level. I have had a discussion with Mr Corbell. He is comfortable with that. Should this legislation go through, I hope that members will support my amendment.

The test we apply is: is it in the community interest? The test is not: is it in the interest of the profit-making of a small section of the community? When you apply that test to Mr Corbell's legislation, the answer is yes. He is ensuring that our actions are for the benefit of the community as a whole. That is why I will be supporting his legislation. That is why I say to my colleagues around me, "Reconsider your position. Think about the highest priority we have in government." The decisions we make should be first and foremost in the community interest. In this case the community interest is best served in the way set out in Mr Corbell's legislation, in the way that I have argued for since 1989 and will continue to argue for.

MRS BURKE (11.48): I am wondering who we are talking about when we say "community". I was listening to Mr Berry and Mr Moore with very pricked-up ears. Can we just look at the big picture? We should not forget that the effect of this debate and the decision is twofold. I would suggest that the comments that have been made are somewhat naive, because we have forgotten the other side of the equation. Not only does it affect big and small developers, but it also affects the mums and dads who are, let us remember, community. They may want to enter into dual occupancy. Can we remember the big picture for Canberra? I am wondering.

Development opportunities bring jobs, bring a better economy. I am sure you would all agree. Mr Quinlan talks very positively—and that is great to hear—about the ideals for a vibrant city. Thank you, Mr Quinlan. These go hand in hand with the good economy, the jobs and a growing, thriving city.

The alternative costs of 100 per cent are not good for Canberra. I suggest that a better and fairer betterment tax of 75 per cent will encourage development and would be part of the jigsaw of creating a thriving economy. And I rest my case.

MR HIRD (11.49): I am delighted to follow my colleague Mrs Burke. I was listening with interest to Mr Berry talking about squandering the people's assets. His government flooded the market with 11,000 blocks of residential land, thereby reducing the cost. So I find his argument that this government is squandering the people's assets most interesting. In Gungahlin, the satellite district created under the former Labor government, residents had narrow blocks and narrow streets forced on them. That could also be seen as squandering the people's assets.

Twelve months ago my committee, Planning and Urban Services, looked at betterment or change of use charges and made certain recommendations. With my professional background, I believe there should be no betterment charge at all. It should be zero. You know my view, Mr Corbell. I have said in the committee and I have said in this house that we should encourage healthy development done in a correct and proper manner. The way to do that is to do just what New South Wales has done with section 94 of its Local Government Act. The betterment tax or change of use charge should be abolished completely and as Professor Nicholls indicated in his report to the government, we should adopt a system similar to that in New South Wales.

Why do I believe that we would be better off having that system than the current betterment tax or change of use charge? The reason is that a developer and the community would know up front, before the development was undertaken, how much that development would cost in financial or other terms. The current system does not allow that to happen. As a compromise, in the report of 2 February, I recommended 50 per cent.

Mr Stefaniak: And so should they.

MR HIRD: Thank you, Mr Stefaniak. So should they. I also believe that a future government should grasp the nettle and look at the outdated system we have before us at the moment. It was introduced in the 1960s because of developers coming into the territory and developing areas without making a contribution to the utilities that had been placed there by the community. That is the historical fact.

We had healthy development over 20 years because there was stability. Betterment was 50 per cent, and everyone knew the rules. Mr Corbell, my colleague on the committee, was interested when the MBA, in giving evidence to our committee, made the strong point that betterment or change of use charge, at whatever percentage, should be embedded over years and not move up and down every few months as it has over the last few years. Then if today they started a development that would taken 36 to 48 months to complete they would know that their estimations of the cost of betterment would not escalate, being 50 per cent one day, 75 the next and 100 the next. Mr Corbell will recall

that on one project the amount escalated by 22 per cent. Therefore, the return on a considerable investment was not all that much.

Development in this territory creates work, not only work at the development site but also work in ancillary industries. There are jobs. That is what this place should be about. We should also be conscious of our responsibilities for the community's assets and not flood the market with 11,000 blocks of land or put narrow streets into suburban areas. Development should be good, healthy development, done in such a way that it does not sacrifice what this territory is renowned for—that is, a good outcome from development.

I go back to what I indicated at the beginning. I believe that betterment or change of use charge should be at 50 per cent. That is what I agreed to in our report in 2000. We should also look at removing the betterment system and introducing a system such as that that operates under section 94 of the Local Government Act in New South Wales. That is the way we should be moving. We should be progressive enough to see that it has worked well in other places. We would do a great service to industry and developers if we moved that way. Developers and the community would know what costs—not just the financial costs—the system was going to impose on development.

MS TUCKER (11.57): Mr Hird said it: we will do a great service to the industry if we support the Liberal position. I will answer some of the arguments that have come up after I put the general position of the Greens. We have taken a strong position consistently. We believe that the development lobby keeps pushing a line that this subsidy is necessary to facilitate redevelopment and that a 100 per cent change of use charge has discouraged particular development proposals in the past. However, we have never been presented with clear evidence of this. There does not appear to be any correlation between the level of the change of use charge and the level of building activity in the ACT. I found Mrs Burke's comment that we are naive to take this position interesting, because the research that has been done, and the Stein and Nicholls reports make it quite clear. Mr Rugendyke quoted Professor Nicholls in support of his argument, but the Nicholls report made it quite clear when it said:

> The terms of reference also required an analysis of the impact of the CUC [change of use charge] on investment in the ACT. This task was made difficult by a lack of relevant data in an easily accessible and useful form. This, combined with the impact of the introduction of Federal Government policies, particularly with respect to downsizing of the Commonwealth public service and its impact on the ACT, made it difficult, if not impossible, to isolate the effects of the CUC on investment from these other factors affecting investment in the ACT.

The Nicholls report went on to talk about data which covered a period when change of use revenue fluctuated erratically:

> In the case of non-residential building approvals however, while there are short term apparent seasonal fluctuations in the data, there is also a distinctive long term trend with a positive slope, indicating a long term increase in the value of private non-residential building approvals in the ACT.

> From a visual inspection of the graphs of the two sets of data, it is difficult to see a relationship between the two, other than possible seasonal effects. These effects are of course well known in the property industry and are associated with the impact of the late December-early January reduction in activity.
>
> A statistical analysis based on the correlation between the two series of data displayed in Figure 2 confirmed that there is no significant relationship between the two. In the case of the ABS buildings approval data, a regression analysis indicated a significant increasing long term trend through time. This may be seen from a visual inspection of the appropriate graph ...
>
> Based on an analysis for this ... set of data, in the case of non-residential leases ... there is no significant relationship between the CUC and the value of building approvals. Because of the limited nature of the data bases, however, and a lack of availability of other relevant data bases, any conclusions drawn from these two sets of data should recognize their limitations.

So there is no proof at all. Nicholls quotes Stein:

> We are not aware of any empirical evidence that development in the ACT has been inhibited by reason of the collection of whole or part of the increase in value arising from development rights. There is, however, anecdotal evidence and assertions made in many business and development submissions ...

We have always had the assertions, but there is no data to support them. We have regularly explained in this Assembly that the Greens' policy is that the change of use charge should be 100 per cent of the change in value of the land. Anything less is a subsidy to developers, and we do not believe we should be giving away this revenue stream when there is no clear public benefit. If the government wishes to promote particular types of development, then it should do so in a direct and transparent manner that can be reviewed by the Assembly rather than just rely on the blunt mechanism of a reduced change of use charge on all lease purpose changes.

During the last debate on the change of use charge, when the government wanted to continue the rate at 75 per cent, Mr Corbell flagged that he would bring on a bill to set the rate at 100 per cent but to allow for remissions in certain cases. I said at the time that this looked like a reasonable approach, and the Greens are prepared to support the government giving incentives for developments which have clear public benefits but which may not otherwise occur because of limitations in the private sector market—for example, to encourage development in parts of the city that are in need of particular facilities or to encourage ecologically sound buildings. Mr Kaine, in his presentation, said that he was concerned that that would not occur if the change of use charge was 100 per cent. Clearly, the possibility of remissions for social benefit is there, particularly with the amendments I am adding to Mr Corbell's bill.

Most of Mr Smyth's speech accused Mr Corbell of having been slack in producing a refinement of the proposal for remissions. My amendments do that. Mr Smyth did not talk about them. Hopefully, he is aware of them now. I recall the government saying at one point that they themselves were interested in developing some criteria to guide these sorts of decisions, so I think it was a bit hollow for Mr Smyth to spend so much of his presentation on that aspect. However, I guess it is an election year.

Mr Corbell's bill allows the minister, by determination, to remit the 100 per cent change of use charge for particular development categories. This would be an appropriate mechanism to provide this incentive. However, I am concerned that this process is a bit loose, as there is no limit on what the minister can put in the determination. There is a check on this process, in that the determination is disallowable, but members know that it can be difficult to keep track of such determinations and to move a successful disallowance motion. I am therefore putting up an amendment to add that the remission provided for in the determination must produce some substantial public benefit to the territory and that the government must explain what this benefit is when it makes the determination. I will speak to my amendments further when I move them.

MR CORBELL (12.04), in reply: Yesterday the Minister for Urban Services tabled the quarterly statement on the level of change of use charge collected by the ACT government for the quarter from October last year to December last year. That document highlighted that in last quarter alone the ACT government proposed to collect just over $1.5 million in change of use charge. In the context of other taxes and charges such as rates, that is perhaps not a big figure. It is not an insignificant figure either. The $1.5 million is about the same amount as the government proposes to spend on reducing class sizes in the coming financial year.

I am surprised that it is up to the Labor Party to progress this debate in this place. I am surprised because time and again over the past three to six months we have seen those on the other side of this place, with the exception of Mr Moore, whinge and complain about the impact of a 100 per cent change of use charge on the ACT economy. I have seen reams of press statements spewed out from Mr Humphries' office and Mr Smyth's office attacking the Labor Party for its stance on change of use charge. I have seen Mr Humphries and Mr Smyth on the TV and I have heard them on the radio saying, "This is outrageous. This is terrible. We cannot afford to let this happen."

What did they do about it? Did they bring legislation into this place? No. Did they put forward alternative proposals in the public realm? No. They sat on their hands and they did nothing. So it galls me just a little when Mr Smyth comes into this place and gets stuck into the Labor Party for its so-called laziness. He should know that people in glass houses should not throw stones.

The legislation Labor introduced in November last year, before the sunset clause took effect, provided an appropriate framework for remission of change of use charge where it was in the public interest. That is the difference between this side of this place and the Liberal government. They do not believe in remitting where it is in the public interest. They just believe in remitting it. They believe in giving a blatant subsidy to whoever puts up a development proposal where a change of use is required in the lease. They believe you should automatically get a 25 per cent remission. In fact, six months ago, they believed you should have a 50 per cent remission. As my colleague Mr Berry pointed out, had they got 50 per cent, in six months time we would have heard them arguing, almost certainly, for 75 per cent remission, and so it would have go on.

Has it been the Labor Party in this place that has refused to engage on this issue? Has the Labor Party been obstructionist on this issue? Has it refused to let things progress? The answer is no.

Mr Berry: We are the ones with the ideas.

MR CORBELL: We are the ones with the policies. We are the ones with the legislation. We are the ones progressing the issue and bringing on debate in this place. The minister has said nothing in this place and has introduced no legislation in this place to address the problems which he has been spouting about in the community for the past six months.

What Labor proposes is clear and straightforward. Change of use charge is a tax and, as with any other tax, people do not like paying it. We in this place should treat it like any other tax and say, "You will pay the tax at the rate we set unless we perceive it to be in the public interest to remit a percentage of that tax as an incentive to encourage you to achieve certain outcomes." That is what governments Australia-wide and worldwide do. They remit tax as an incentive, but they do it in a targeted way. That is what this bill proposes we do with change of use charge.

This bill proposes that the tax be remitted in circumstances deemed by the government at the time to be appropriate and that such decisions be put forward to this Assembly, which may veto them. That is an open and accountable way of dealing with remission. Let the government of the day bring forward a disallowable instrument proposing remission in a particular area or for a particular purpose and let the Assembly decide whether that is unacceptable. If it is acceptable, no problem. It goes through and comes into force. If there is a problem, let the Assembly vote on the matter. That is an appropriate mechanism for dealing with remission.

Mr Smyth, in his comments earlier, suggested that the Labor Party was trying to slug ACT Housing more money for change of use charges relating to ACT Housing properties. The Labor Party's intention was simply to provide for the status quo as is currently outlined in the legislation and the regulations. The regulations currently state that there is a remission for the Commissioner for Housing for an amount equal to 25 per cent of the added value. Labor's bill, the bill we are debating today, simply translates that remission currently in the regulations into the act. There is no change to the level set; there is no change to the percentage. The bill simply translates from the regulations into the act. If the minister wants to make a complaint about the level of change of use charged to the Commissioner for Housing, he should perhaps look at his own portfolio responsibilities rather than blaming the Labor Party.

Mr Moore has circulated an amendment to reduce the rate to 50 per cent, which was the pre-existing longstanding rate. The Labor Party is quite happy to support that amendment.

A lot of words have been said in this debate about the need for certainty and stability. I could not agree more. We do need certainty and stability, but I ask members of this place to look at who have been the drivers behind the instability. Who have been the people pushing for change? It has not been the Labor Party. It has not been those members of this place who have argued time and again for a 100 per cent change of use charge.

It has been the Liberal government opposite which have sought time and again to change the fundamental nature of the territory's leasehold system by pushing for legislation at a federal level to allow for 999-year leases, perpetual leasehold, and who have introduced legislation into this place to put in place a 50 per cent change of use charge. They are the people who have caused the instability. They are the people who have undermined the stability previously inherent in the administration of the change of use charge, no-one else. For them to come into this place and accuse other members of creating instability is an absolute farce, and it should be judged as such. Look at their record. Look at who has been pushing for change.

This legislation is clear and straightforward. It provides for remission in circumstances judged to be in the public interest, subject to the veto of the Assembly. It puts into the legislation remissions previously set by regulation. We believe it appropriate that such provisions should be embedded in the act. If this legislation is passed today, all other existing remissions in the regulations and omitted from the regulations by this legislation will require a disallowable instrument, which I am sure it is not beyond the minister's wit to put together and table in this place.

We have to protect the value of a community asset and not use remission of a charge in an indiscriminate way. If we want to remit a charge, let us make it targeted, let us make it effective and let us make it accountable. That is what this bill does. I urge members to support it.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (12.17): Mr Speaker, I move amendment No 1 circulated in my name *[see schedule 1 at page]*. As I foreshadowed, this amendment puts back into place the 75 per cent change of use charge.

MR CORBELL (12.18): This an embarrassing backdown by Mr Smyth. That is all we can say about it. Mr Smyth, prior to the last sitting of the Assembly last year, in discussions I had with him and Mr Osborne, indicated that he would be bringing forward more comprehensive legislation to put in place the government's position in relation to change of use charge before the enactment of the sunset clause. Labor kept its part of the bargain by putting forward our legislation before the commencement of the sunset clause in November last year. We are yet to see any legislation from Mr Smyth. Instead we have a hastily put forward package of amendments.

I want to speak very briefly to the issue of 75 per cent. What Mr Smyth proposes by this amendment is to set in place as the normal charge for change of use charge 75 per cent of improved value. The Assembly should not be supporting this amendment if it is prepared

to support my bill in principle. The reason is that my bill allows for targeted remission. The whole purpose of this bill, as it has now been agreed to in principle by the Assembly, is to recognise that the de facto rate of the change of use charge is 100 per cent, but that may be remitted by 25 per cent, 50 per cent, 75 per cent or even 100 per cent through a disallowable instrument tabled by the minister of the day in this place and subject to disallowance by this place. My bill proposes a targeted remission process.

If you support the amendment proposed by Mr Smyth, you will be allowing an across-the-board remission of 75 per cent, plus potential further remission if you support the other provisions of my bill. That is a nonsensical proposition. The only way to have an effective remission scheme is to have a base rate of 100 per cent and then have a mechanism for remission below 100 per cent in a targeted way subject to veto by this place. I say to those members who are tempted to support 75 per cent to consider that this legislation we have already agreed to in principle allows for remission below 100 per cent—at 75 per cent or 50 per cent or lower—where it is deemed by this place to be in the public interest. That is the way we should be going ahead. We should not be saying, "Let us build into this legislation a blank remission." It is inappropriate, and we should not support this amendment.

MS TUCKER (12.20): I support what Mr Corbell has just said. I do not know whether Mr Rugendyke was listening when I responded and Michael Moore responded.

Mr Rugendyke: I was listening.

MS TUCKER: He says he was listening. The arguments about lack of stability have been well responded to by Mr Corbell. If we have 100 per cent, with the possibility for remissions, we will have stability, so that is not an argument now.

Mrs Burke spoke about being naive about the reality of the industry. We are being presented with the opportunity to give remissions. That will be possible. If the government is saying that some developments will not occur because of the 100 per cent, they will have every opportunity to do something about that. The minister can give a remission of 25 per cent, 50 per cent or whatever. You will be able to argue for that in this place. This legislation makes it a transparent, open process.

I have an amendment, which by the look of the way people are talking here is not going to get up, which would bring in more detail and more criteria to guide the minister in granting remissions. My amendment says:

> ... the Minister may only make a determination under subsection (1) if the Territory would derive a substantial, environmental, social or economic benefit from the change of use of the land.

If the minister can show that benefit, he can do it, and we can debate that. What do we want to achieve from this? Do we want to service the industry as Mr Hird said, or do we want to service the territory? That is the question. If you support Mr Corbell and you support my amendment to what Mr Corbell is doing, you will have a clear set of criteria we all support. We want benefit to the territory. We do not want to service the industry just for the sake of it.

Mr Rugendyke said he has a strong commitment—and I believe he does—to proper funding of social services in this territory. We are talking about revenue here. This is revenue for the ACT that we are talking about. All Mr Corbell is doing here today—and my amendment refines it to a degree—is ensuring that if we are forgoing revenue for the territory there is a good reason. The bill brings the parliament into it. It allows us to express a view on whether or not the territory will benefit from a remission—and there may well be cases of that.

The position that we have come up with here is totally reasonable. It is not about some meaningless numerical compromise that says, "Okay, they want 100 and they want 50, so let us go for 75." It is more complex than that. This is about your approach to the assets of the people of the territory and responsible planning of the territory. I just cannot believe anyone would not support it.

Mr CORBELL (12.24): I would be very interested to hear the view of Mr Osborne on this matter in this place. Over the past couple of months Mr Osborne has made some comments in the media on this matter, but I would be very interested to hear his justification in this place, on the record, for the view I understand he is going to take on the level of change of this charge.

I should indicate that the Labor Party believes that if we proceed with setting the level of change of use charge at 75 per cent as proposed by Mr Smyth's amendment then there is not much point proceeding with the rest of this bill. We will have to seriously consider whether or not we will support legislation which allows for remission on top of a base rate of remission. It a nonsensical proposition to have a base rate of remission and then the ability to have remission on top of that.

I flag to members that if we proceed down the path of setting the rate at 75 per cent the Labor Party will probably have to vote against the remainder of the clauses of its own bill, because it will have been made a complete nonsense by setting the rate at 75 per cent.

Again, I put it that it would be invaluable for this debate if Mr Osborne was able to indicate on the record his view in relation to the establishment of the base change of use charge rate.

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

Sitting suspended from 12.27 to 2.30 pm

Questions without notice

Nurses—Canberra Hospital

MR STANHOPE: My question is to the Minister for Health, Housing and Community Services, who said in his statement of 7 December last on the nursing workforce that the government's proposed salary package would cost $22 million over the next three years, with ongoing costs of $11 million per annum. He said then that this month—that is, February 2001—he would move for the appropriation of the additional amount for the year. Can the minister say whether that is still his intention?

MR MOORE: It is not my intention to move appropriation legislation, because that is the role of the Treasurer. However, taking the meaning of what you are saying to be whether there will be a second appropriation that deals with the issue of nursing, I think I have the Treasurer's permission to say that that will be the case, that there will be a second appropriation. The only question is that it may be very early in March, rather than late in February.

Let me assure the nurses at the Calvary Hospital who have agreed to it that their pay will take account of the increase of 12 per cent, plus or minus, from just before December when they signed up. I have to say in regard to the preparation of the appropriation that, should the nurses at Canberra indicate that they do not wish to accept the offer or do not even wish to go to a vote on it, it would be pointless for us to put money in that second appropriation for them and I would be unwilling to take it to the government and encourage it to do that.

I sincerely hope that when the nurses at the Canberra Hospital meet on Friday, as I understand they will, they will be able to make that decision. However, there will be a second opportunity after that, that is, the development of the budget for next year. We have put an offer on the table. We want them to accept it. We think that it is a good offer.

Last night I clarified one issue which I think was not clear. I had said a number of times that we would grandfather the demand we were making with regard to level two nurses and there was some misunderstanding of that message between the Canberra Hospital and the Nursing Federation. I clarified last night that grandfathering will apply to any conditions. I hope that that will make it easier for the Nursing Federation and the nurses at Canberra Hospital to accept the very good offer that we have made.

Mr Stanhope, since you have asked me the question, I would have to say to you that one thing that has surprised me greatly is your very quiet approach to this matter. Perhaps you have taken the attitude I have that it is now a matter for negotiation between the hospital and the Nursing Federation and we should stay out of it, but I have to say that I would be really keen to know whether the Labor Party thinks that this offer is a good one. After all, there would be many unions in the ACT, I would have thought, which would be very pleased to receive an equivalent offer, a 12 per cent offer.

It should be remembered that for some of the workers, the evening workers, we are talking about going well beyond their current 15 per cent loading in addition to the 12 per cent rise over the period, so there will be a very significant increase for those nurses. If you look at the attitude of the nurses at Calvary Hospital you will find that 83 per cent of them are saying that it is a good offer. I have to say that I wonder what Labor thinks about that, because it has been very quiet indeed on it.

MR STANHOPE: I have a supplementary question, Mr Speaker. It is relevant to note that the minister has commented on my quiet approach on this issue. I think he meant that I am always sensible, wise and considerate in everything I do on all occasions.

MR SPEAKER: Ask your supplementary question, please.

MR STANHOPE: Mr Speaker, in the *Canberra Times* of 9 February the CEO of the Canberra Hospital, Mr Rayment, was quoted as saying that management would have to consider cuts if the nurses did not agree to the government-funded increase. Mr Rayment's words were that management would have to consider cuts if the nurses did not agree to the government-funded increase. Can the minister explain why that is so? Does it mean that if they accept the offer, nurses will be offering up savings in excess of their wage increases? If that is not the case, can the minister advise the Assembly how he proposes to fund the cost of the proposal?

MR MOORE: I asked Mr Rayment to explain that because it made no sense to me that that would be the case. After all, the government has put an offer of money on the table. That is what we did. We said, "Here is the money and this is what we would demand for it." That does not affect jobs. Mr Rayment indicated to me that he felt that his words were not clearly understood by the journalist in writing that and that that was a misrepresentation of his thinking.

Mr Stanhope: So Leah De Forest mucked it up?

MR MOORE: Mr Stanhope may find it very difficult to understand, but sometimes when you talk to a journalist on a wide range of issues with the intention of getting something across the understanding between the two is not quite right. That might be to do with the journalist and it might be to do with you. It has actually happened to me. Sometimes it has been due to the way I said things. I have to say that on those occasions, much as I did not like what was I reading in the paper, I understood why the person thought that way. The most important thing to me is to make it really clear that this offer will not in any way create job cuts or cuts to the hospital; it is an offer of money with some conditions attached to which the nurses can agree or disagree. Those conditions do not include in any way a loss of income for the hospital or a loss of jobs. A couple of other things are very important in that regard.

Mr Stanhope: Has Mr Rayment cleared up this misrepresentation?

MR MOORE: Mr Stanhope, I think that it is really important that we avoid trying in some way to expose a public servant, if that is what you are trying to do.

Mr Stanhope: He said that there would have to be cuts if the nurses did not agree and you are now saying that he was wrong.

MR MOORE: I am telling you that there are not going to be any cuts. I am telling you that the way it was reported, for whatever reason, was wrong.

Mr Stanhope: It would have been good to correct the mistake.

MR MOORE: You have asked in your interjection whether Mr Rayment has corrected that mistake. I will take that interjection, even though I know that you will be very unhappy about that, Mr Speaker.

MR SPEAKER: It is out of order.

MR MOORE: Mr Rayment has communicated with the nurses on a number of occasions on this matter. He is constantly writing through *Hospitell*, the newsletter of the hospital, and communicating with individual nurses; so the answer to whether he is clarifying that is yes.

Mr Speaker, the other thing I would like to say is that there was an argument, as I pointed out yesterday, that somehow or another we are also going to force nurses into 12-hour shifts or three-hour shifts.

Mr Stanhope: Is that true?

MR MOORE: That is simply not true. It was the Nursing Federation that was suggesting that. I pointed out yesterday that that is not true and has never been true and that it is part of some scuttlebutt that was being put around which in some way discourages people from accepting what is a fantastic offer and an offer which I am sure the Labor Party, had it been able to manage the finances in such a positive, would have been delighted to have been able to offer its nursing workforce—12 per cent. Indeed, any of us would have been delighted, I would have thought, if we were able to get a 12 per cent pay rise offer.

Mr Berry: You did better than that, Michael.

MR SPEAKER: I call Mr Osborne.

MR MOORE: Excuse me, Mr Speaker. I heard an interjection just then from Mr Berry, who said, "You could do better than that." He is right. For the night nurses it is well over 12 per cent.

Mr Berry: I take a point of order, Mr Speaker. I said that Michael did better than that.

MR SPEAKER: There is no point of order.

TransACT

MR OSBORNE: My question is to the Chief Minister. It is in relation to TransACT, but I do not know whether he is the responsible minister.

Mr Humphries: Yes, it's me.

MR OSBORNE: Okay. Last night I was talking to a friend of mine who lives in Sydney and who is involved in a multinational company that deals with this type of industry. We were talking about a number of things here in the territory.

Mr Kaine: Is this Mal?

MR OSBORNE: No, it wasn't Mal.

Mr Quinlan: He's got another friend.

MR OSBORNE: You have thrown me off. We were talking about a couple of things and out of the blue he asked, "Who the hell is paying all that money to TransACT?" I said, "What do you mean?" He said that he had travelled around the world with his business and had been dealing with a number of companies. In his view cable technology was old technology. Everywhere he went and all the big players he dealt with around the world agreed that the future was in broadband. Is that the one through the air?

Mr Smyth: No. This is a broadband cable.

Mr Rugendyke: Digital. I'll help you, mate.

MR OSBORNE: Digital. There it is. Anyway, you know what I mean. Although the technology is new technology for what we have in the ground at the moment, his view is that in a couple of years it will be obsolete. You can imagine my concern about this when someone who I know is involved in the industry asked me a question like that. Minister, can you tell me how much this has cost the ACT so far, including Actew's component in TransACT? Do you have a figure on how much you think this will ultimately cost the ACT taxpayer?

MR HUMPHRIES: Mr Speaker, I thank Mr Osborne for the question. TransACT is not a project or an enterprise which is actually directly operated by the ACT. TransACT is a venture owned by a number of players, of whom the ACT is but one. In fact, I think the ACT, through Actew, is but one. A number of shareholders are the owners of TransACT. The shareholders include AGL and some other companies. I can provide Mr Osborne with the details of those companies. In a sense the investment in TransACT and the exposure TransACT experiences is for TransACT itself. If TransACT fails completely and goes down the gurgler, which I do not believe is going to be the case, then TransACT's investment is an investment loss for the shareholders, of whom Actew is a relatively small player.

Actew was a major instigator of the TransACT project. It worked hard to develop the TransACT concept and made some investment in terms of set-up costs and in developing the idea. The roll-out of cable at Aranda, for example, was done, I think, entirely by Actew. It has expanded that now into a partnership with other companies in order to roll-out in the rest of the ACT.

I can give Mr Osborne the figures that are on the public record about the investment made in TransACT to date, but that does not represent an exposure by the ACT community because only a small proportion of that exposure is ACT community exposure.

As for Mr Osborne's comment on his friend's view about the appropriateness of the technology and how contemporary the technology is, I always take the views of Mr Osborne's friends very seriously, Mr Speaker. I never know when these views might be expressed on the floor of this chamber before very long, so I do not scoff at them at all.

My advice is that the technology is very contemporary, cutting-edge technology. It is not just a cable; it is a broadband cable facilitating much greater information flow to a person who has it in their home, business, school or whatever. The illustration of that is that

with TransACT's broadband cabling it will be possible to get on-line video. There is no technology that I know of today anywhere in Australia which is sophisticated enough to allow you to get on-line video anywhere, but it will be possible here in Canberra very soon. That is a great innovation, and one which is very exciting. No other community has gone as far as we have in developing it. In some other places limited attempts have been made to follow suite. I understand that in Perth a roll-out of broadband cable is just beginning in certain parts of the inner city, but the concept and the scale are entirely different from what is being proposed in the ACT.

I do not purport to be an expert in the technology involved here, but I am very firmly of the view, based on the advice given to me, that this is extremely exciting, very dynamic, cutting-edge technology which will, potentially, have great spin-offs for shareholders in TransACT, and included among those will be the ACT community.

MR OSBORNE: With all due respect to the Chief Minister, I value my friend's judgment on this technology over his, but I am not an expert either so I will have to do some more work on it. I have a supplementary question. In the information you provide, Chief Minister, could you provide not just the upfront costs but also how much Actew has spent overall, whether it be in the roll-out or anything else it has spent on TransACT? Could you provide us with that figure, and any projections it has about what it will spend in the future?

MR HUMPHRIES: I will provide as much information as I can. I do not know to what extent the investment that has been made by TransACT is still a matter of their commercial interest being protected as they roll that out. I will not jeopardise TransACT's commercial position. I will provide Mr Osborne with all the information I can in answer to his question.

Budget surplus

MR QUINLAN: My question is to the Treasurer. Treasurer, yesterday you tabled the consolidated financial management reports of November and December 2000. November showed a projected surplus of $35.5 million, and I recall that in November you put out a press release full of self-adulation for the better-than-expected result. By December that better result had evaporated and the projected surplus had declined to under $6 million. I saw no press release confessing to a below-par performance. Can you enlighten the Assembly as to the reasons for the volatility, given that these variations follow a financial year in which you estimated the yield of a small deficit, but it was reported at the end of the year that we had provided a surplus of over $80 million. Is our government in control of our economy?

MR HUMPHRIES: I would love to be able to make an estimate at the beginning of a financial year—in fact, before the beginning of a financial year, when budgets are usually brought down—of what is going to happen by the end of a financial year and be absolutely accurate about it.

Mr Quinlan: These are one month apart.

MR HUMPHRIES: I know that. I will come to your question, Mr Quinlan. Just be patient. When I bring down a budget, as I will in May this year, I will be predicting what the surplus for the territory will be—and it will be a surplus—for the year ending June 2002. With the best will in the world, with the best crystal balls that you might produce in this day and age, you cannot be very accurate about those sorts of projections. You can certainly make a goal. You project what you are going to do with those figures. The ACT's experience in the last few years has been that our estimates have been reasonably conservative. In fact, we have had some much better outcomes than we have projected. I would much rather have that result than have much worse outcomes than have been predicted. So there is a conservatism in those figures, but nonetheless they are there.

We have taken to tabling on a monthly basis the fluctuations in those figures as they appear to us, based on the movements that affect the government—things like financial decisions that are made in government to spend on new projects or new initiatives in the course of the financial year. There are movements in national financial and economic indicators, and there are movements in the value of our investments, many of which are held overseas. As I think Mr Quinlan was saying in this house just yesterday, when the value of those investments moves up and down or when the exchange rate moves up and down it has an impact on the ACT. So our figures have moved around.

Mr Quinlan: It does not stop you patting yourself on the back when they go up, does it?

MR HUMPHRIES: You quoted my press release of November last year. My press release did not say there was going to be a surplus of $35 million. It said that there could be a surplus of $35 million. Mr Quinlan has the release in front of him. Have I accurately quoted myself in that release, Mr Quinlan? Mr Quinlan finds something to amuse himself with rather than answer my question, so the answer to my question is yes.

We have done the decent thing by putting on the table a monthly financial report which gives a month-by-month projection of the position for the end of the year. As Treasurer, I projected in May of last year a surplus for 2000-01 of $4.2 million, and I am confident I will deliver that to the ACT community. In fact, I am confident I will deliver more than a $4.2 million surplus. That is my prediction at this time. One is always the victim of forces much larger than the mere ACT government. Nonetheless, that is my prediction. That is what I think we will achieve.

One of the things that have contributed to the decline in the earlier estimate is the decision to fund pay increase for nurses in the ACT system. As you know, nurses at Calvary have accepted the government's offer, and there is $2.9 million worth of pay increases to be factored into the budget. There has also been a decision to change the arrangements for the funding of InTACT. Members will recall that concern was expressed at the Estimates Committee about the fact that the overhead costs of InTACT were being borne by individual agencies. They have been moved to the central budget, and that reflects adversely on the bottom line to the extent of $6.2 million. There is additional funding for the GMC 400, which has been announced before, of $1.5 million, and there are movements in the value of the ACT's superannuation investments overseas.

Those are the reasons, but the bottom line is what we bring down at the end of this financial year as our surplus. I say again that I believe it will be no less than the amount we have indicated in our budget.

MR QUINLAN: I ask a supplementary question. Treasurer, each year these days our bottom line in flattered by an amortisation of superannuation review figures. In your correspondence of 7 December to the Select Committee on Estimates you said that $25.797 million is included on the positive side of our budget. It amounts to absolutely no value. It is in fact the correction of past deficit overstatements, something with which you are familiar.

Given that our figures are inflated by this number which implies no value, are we not technically in deficit until we reach $26 million? I notice that you are predicting a surplus of $13 million next year. Are we not predicting an actual deficit for this year and next year? This $26 million is purely a paper figure. There is no value to it.

MR HUMPHRIES: Mr Quinlan continues to say that he is not satisfied with the way in which the government uses particular accounting treatments.

Mr Stanhope: Just be consistent.

MR HUMPHRIES: We are being consistent, Mr Stanhope, because in these projections we are subject to the overview of the Auditor-General. Mr Quinlan, you know perfectly well that the Auditor from time to time agrees to a change in accounting treatments. He does so invariably because he believes that a new accounting treatment gives a more accurate picture of what is taking place in the ACT.

Let me take up Mr Quinlan's suggestion. Let us reject the accounting treatment which allows us to treat the superannuation review figures in that way. What would happen is that the Auditor-General would, I believe, qualify the ACT's accounts on the basis that we were not using a contemporary accounting treatment with respect to our figures. You might not think that is the case, but I know he would, because he said to us, "This is the treatment you should use for your accounting figures."

I ask what Mr Quinlan would say if we put out an end-of-year report which said, "Get nicked, Auditor-General. We are not following your accounting. We have our own figures here." What would you be saying in a press release? You would be saying, "Government fudges figure. Government abandons Auditor-General's input. Government fails to live up to its expectation. More conflict between the government and the Auditor-General."

I do not mind copping it sweet if I play fast and loose with the accounting treatments which have been laid down by the Auditor-General for this place. But when I am complying with those treatments I think I should get the benefit of the doubt and I should be allowed to be able to put those figures on the table in the confidence that, among others, the Auditor-General has sanctioned that treatment of the government's accounting. What basis is there for us to produce our figures, other than the basis the Auditor-General says is the basis for treating particular accounting factors in our budget? What alternative is there?

Employment

MR HIRD: Accrual accounting—it is more a case of cruel accounting on the other side of the chamber. Mr Speaker, my question is to the Chief Minister. Can the Chief Minister advise the parliament what indicators like the ANZ job advertisement statistics and the Morgan Banks job index show about likely employment trends within the territory in the short term?

MR HUMPHRIES: I thank Mr Hird for that interesting question. I am sure members of this place have seen the press release issued in the public arena in the last few days by Morgan and Banks. It is a very interesting release. Morgan and Banks are not on our payroll. The heading of the media release is "ACT job market on the boil!!! The No 1 job state in the nation". I understand that Morgan and Banks are well regarded in that field.

Mr Hargreaves: Through the taxation department.

MR HUMPHRIES: I am sure that you have quoted them at some stage in the past so if they have been good enough to quote in the past they are good enough today. They have commented for many years on these—

Mr Stanhope: A bit like the Productivity Commission report.

MR SPEAKER: Order, please. Mr Hird has asked a question.

MR HUMPHRIES: This is a reliable commentary on the ACT position and I think it needs to be taken very seriously.

Mr Speaker, 29.8 per cent of companies based in Australia intend to take on more staff in the immediate future—that is the next quarter. In the ACT that figure is 35.8 per cent. So in the ACT 6.7 per cent more companies than the national average are prepared to take on more staff in course of the next quarter. Also, 43½ per cent of all ACT employers intend to take on more staff in the next three months and only 7.7 per cent thought that they would reduce staff. Leading the private sector is the telecommunications sector, 90 per cent of whose employers indicate that they are intending to take on more employees in the course of the next quarter.

It always astonishes me what long faces and what disinterest is shown by those opposite when those sorts of figures hit the deck. You start reading those figures out and the shadow Treasurer and the leader and other members of the opposition chose to leave the chamber. It says a lot about the way these people think. Every time we get good unemployment figures these people mope around with long faces as if this is some sort of devastating show of doom. Forget about the poor sods out there who have not got jobs. They are more concerned about the political capital they can make out of jobs being lost in the ACT.

Mr Stanhope: How many full-time jobs did we lose in Canberra?

Mr Berry: How many full-time jobs went, Gary? Tell us. Where is your plan to deal with it? Where is your press release?

MR HUMPHRIES: Nationally, 42.1 per cent of firms intend to hire more staff in the health, medical—

Mr Berry: How many jobs did you lose?

MR HUMPHRIES: In the health, medical and pharmaceutical sectors 42 per cent intend to take on more staff across Australia. In the ACT that figure is 80 per cent. There is very strong growth in IT. Fifty-six per cent of employers in the financial services section intend to take on more staff and 53 per cent of employers in IT plan to hire more staff as well.

The strength of employer optimism in the ACT reflects the very productive approach the government has taken towards encouraging high technology in the ACT. The number of job ads in the ACT as a result has grown by 7½ per cent in the past 12 months and more than 30 per cent in the past two years. Nationally, of course, over that period there has been—

Mr Berry: All of these wild predictions won't save you, Gary. The fact is that jobs are—

MR SPEAKER: Quiet please, Mr Berry.

MR HUMPHRIES: Nationally, in the past year there has been a decrease of jobs in job advertisements of 21.4 per cent.

Mr Berry: Talk about the real figures, Gary.

MR HUMPHRIES: In the ACT there has been a large increase. I do not know why Mr Berry finds that so difficult.

Mr Berry: You will not talk about the real figures, Gary.

MR HUMPHRIES: I do not know why he finds it so disturbing that more Canberrans are getting jobs.

Mr Berry: Well, I am being provoked, Mr Speaker.

MR SPEAKER: Mr Berry, I warn you.

Mr Stanhope: How many jobs did we get in January, Gary?

MR SPEAKER: Mr Stanhope, I will warn you too shortly.

MR HUMPHRIES: Mr Speaker, I know it is easy to spring on a small variation—and I mean a small variation—in the unemployment figures in one month. Mr Berry made a statement to the effect that there had been a 0.3 per cent increase in unemployment. That was not true. The increase was 0.1 of a per cent and our unemployment remains the lowest in Australia by a country mile. I have nothing to be sorry about whatsoever.

The Morgan and Banks job index is an indicator of employer confidence and employers in this territory have confidence. The ANZ job ads show that, the Morgan and Banks figures show that. Members should remember that in the course of the last six years we have created 17,000 jobs in this territory. After creating 17,000 jobs we get those opposite complaining about a 0.1 of 1 per cent increase in the unemployment rate. This is a great and devastating blow. This is what I call looking for the wood and not finding the trees.

We are not going to rest on our laurels. Today we have announced a number of measures to do with the alleviation of poverty in the ACT by way of innovation and early intervention. All of this will contribute to a further growth in jobs in the ACT. I am very proud of that and the extent to which it creates and sustains jobs in this territory will continue to be the hallmark of this government.

MR HIRD: Mr Speaker, I know it is highly disorderly but—

MR SPEAKER: Do not even attempt to do it.

MR HIRD: I would just ask the Chief Minister if he would mind repeating the statement in respect of Morgan and Banks because I would like him to clarify a number of matters.

MR HUMPHRIES: Mr Speaker, suffice it to read the headlines from their press release—"ACT job market on the boil!!! The No 1 job state in the nation". If the opposition wants to quibble with that and if they think Morgan and Banks were wrong, they can take it up with them. But I think it is a pretty accurate statement.

Mr Berry: They may be contributors to the Liberal Party.

MR HUMPHRIES: OK, Morgan and Banks are in league with the Liberal Party, obviously. The people on the other side have maligned so many respectable very highly regarded companies across Australia in the last few years that it is not funny. Morgan and Banks are respected for their integrity and their neutrality. It is a great pity that those opposite cannot swallow good news when it comes along.

Disability services inquiry

MS TUCKER: My question is to the Chief Minister and relates to staffing for the inquiry in services for people with disabilities in residential care in the ACT—the Gallop inquiry. Chief Minister, I wrote to you on 10 January of this year expressing some concerns of mine and of members of the community arising out of the initial directions hearing of the inquiry in December of last year and I have not yet received a reply. I seek leave to table the letter, which fully explains the concerns.

Leave granted.

MS TUCKER: I present the following paper:

> Disability services inquiry—Appointment of staff and conduct of hearing—Copy of letter from Kerrie Tucker MLA to Gary Humphries, Chief Minister, dated 10 January 2001.

The Chief Minister may recall that I questioned the personnel appointed to assist the inquiry. Specifically, I raised concerns regarding the appointment of Mr John Wynants, who, until this appointment, had responsibility for the management of housing policy, clearly an issue most relevant to the subject of the inquiry. I made the point that there could reasonably be a perception of bias and that those members of the community concerned with the effectiveness of this inquiry may wonder at the impartiality of such a person.

Before Mr Moore jumps up and says that I am saying unkind things about public servants, I point out that I am in no way reflecting on the character of Mr Wynants. This is about the perception of bias and the position he held before he was appointed to this inquiry.

MR SPEAKER: You must remember standing order 117 (d), please.

MS TUCKER: I also raised concerns expressed to me by constituents that the conduct of the inquiry appeared to be legalistic and intimidating and that there were no provisions made for people with disabilities, such as accommodation for people using wheelchairs, at that directions hearing, which only served to heighten the view that the inquiry was not being conducted in a way that was sensitive or sympathetic to people with disabilities. I understand that the Chief Minister has been approached by community organisations to appoint a co-commissioner who has expertise in the field of disability services.

Chief Minister, when I asked your office and staff of the inquiry who had actually appointed the staff, no-one seemed to know. Can you now clarify for the Assembly why it was that people were not sure who had appointed the staff? Will you document the papers of the appointment, as I asked you to do in the letter? Can you now respond to the concerns that I have raised in the letter and have just repeated?

MR HUMPHRIES: Mr Speaker, quite frankly, I hesitate to thank Ms Tucker for that question because I think, to be quite honest, it is a very improper question and ought not to have been asked. Ms Tucker is doing on the floor of the Assembly what she has done in the ears of a number of people around the community in the last few weeks; that is, frankly, seeking to white ant the inquiry that Mr Gallop is conducting at this time. I have heard many criticisms emanating from Ms Tucker and I am concerned about those things.

Ms Tucker: Why don't you respond?

MR HUMPHRIES: I think that if the government were to engage in behaviour like the behaviour that Ms Tucker is engaging in at the present time with respect to an inquiry going on in the territory under the Inquiries Act there would be outrage in this place. The fact that it is coming from a member of the crossbench does not make it any more acceptable, Ms Tucker.

I believe that former Justice Gallop is eminently qualified to deal with every one of the issues that Ms Tucker has raised today—the issue about access of people to the inquiry; the issue of the formality or lack of formality, as the case may be, of the inquiry; the

question of the capacity to hear the evidence of people unimpeded; and the receiving of advice from advisers or others in the course of the inquiry.

I have no doubt that Mr Gallop has that capacity and I want to put on record in this place the government's strong endorsement of Mr Gallop's approach and the belief that he should be allowed, without intervention by members of this Assembly who can stand in this place and make accusations without having to account for them, to proceed with his inquiry without those sorts of impediments in the way. I think that it is improper to comment on such matters in the way that it has been done in here.

Mr Speaker, the adviser to whom Ms Tucker refers has been seconded to assist the board in its inquiry. Incidentally, I have a reply to Ms Tucker which I have recently signed or on which I am seeking some further information and advice. I will quote from the draft reply, Mr Speaker. My reply adds:

> … I do not believe that your concern on this aspect of natural justice is reasonably founded.

The person you have named:

> is able to distinguish between his current and previous roles.

That is, in ACT Housing. I continue:

> He and other staff members' experiences are more than sufficiently remote from the terms of reference…

to prevent any conflict of interest. There is not merit in seeking to have him separated from the inquiry, particularly given the great experience that Mr Gallop and Mr Nash bring to this inquiry. They are both very experienced lawyers and they are more than capable of filtering any question of advice coming to them from the gentleman concerned and they have, I understand, welcomed the participation of this gentleman on the basis that his experience and background in the area concerned are an asset to the board of inquiry.

MR SPEAKER: Do you have a supplementary question, Ms Tucker?

MS TUCKER: Yes, thank you. That is total nonsense. I am trying to improve the credibility of the inquiry with the concerns I have been raising, representing the community.

MR SPEAKER: Ask your supplementary question.

MS TUCKER: My supplementary question is: given that there is no-one on the team with expertise in the field of disabilities and that the inquiry itself is being conducted in a very legalistic environment, will the government now commit to pay for legal representation of the members of the community who wish to make a submission to the inquiry, bearing in mind that they may find themselves subject to cross-examination by the barrister representing the department?

MR HUMPHRIES: The government has taken the approach with this inquiry that it should be properly resourced to do its work and should be allowed to do its work within the terms of reference which have been put before this place and agreed to by the government. I think that they are substantially the same terms of reference.

I refute the suggestion that the proceedings are overly legalistic. The advice that has come to me is that the hearings have proceeded in a very proper way. Ms Tucker might forget the fact that as a result of such an inquiry, theoretically speaking, certain people may have serious comments or observations made about them by the board of inquiry. Do not forget that this matter touches, at least tangentially, on the deaths of a number of people in the care of disability services.

The interests of the parties that might be mentioned in the inquiry need to be taken into account as well in this process and that may necessitate on occasions what Ms Tucker may perceive to be a formalistic approach in order that issues of natural justice are properly catered for and people's rights are protected. That is the approach that Mr Gallop has chosen to take. I believe that it is an appropriate approach.

I do not believe that it is appropriate to fund people to make submissions to the inquiry because I believe that the inquiry is being conducted in such a way that it will allow people to make those submissions. I am aware, for example, that Mr Gallop, Mr Nash and others have travelled to various homes in the ACT to take evidence in situ from residents there. That is an indication of an inquiry which is willing and anxious to get to the bottom of the matters that have been referred to it.

I remind members in closing that if I had taken the approach that Ms Tucker is taking to an inquiry headed by, for example, Professor West, whom Ms Tucker preferred to conduct this inquiry, without question I would be facing a motion of no confidence today. There would have been a motion of no confidence if I was doing the sort of thing about Professor West's inquiry that Ms Tucker is doing today about Mr Gallop's. Do not even think about denying it, Ms Tucker. Think about the way that this chamber behaves. That is what would happen. I ask Ms Tucker to live by the standards she would expect of the government.

Building industry

MR CORBELL: My question is to the Minister for Urban Services. Mr Speaker, when introducing private certification in the ACT building industry the minister gave an undertaking that the arrangements would be reviewed after 12 months operation. It is now over two years since private certification was introduced into the ACT building industry and to date no review has been completed. Minister, why have you failed to meet your promise?

MR SMYTH: Mr Speaker, the promise has been kept. The review was commenced after 12 months of operation. I now have that report and it is being considered.

MR CORBELL: Minister, a discussion paper was issued in April last year by consultants on the review and that discussion paper stated that the final report was due in May 2000. Minister, this report is now at least nine months late. Minister, why have you

retained the report for nine months? Why has it not been released? Just what are you hiding?

MR SMYTH: Mr Corbell catches himself out, Mr Speaker. His first question was why haven't I done a review, and then he stands up in the Assembly and says in his supplementary question that I put out a discussion paper. He cannot have it both ways.

Mr Corbell: No, you didn't listen to the question. I said no review has been completed.

Mr Wood: You have been Gary-ed.

Mr Corbell: I have been Gary-ed again.

MR SPEAKER: If you keep that up you will not be hearing the answer either.

MR SMYTH: Mr Speaker, I said there would be a review after 12 months. Mr Corbell now confirms that that review has been undertaken. I now have the final report and I am considering it.

Canberra Hospital implosion—inquiry

MR KAINE: My question is to the Chief Minister. Yesterday, Chief Minister, in answer to my question about the Smethurst inquiry, you said that "the inquiry is technically dormant rather than non-existent". In the *Canberra Times* this morning I read that a spokesperson for you was reported to have informed the *Canberra Times* that the inquiry in fact was terminated in 1999. Which is correct? Is the matter technically dormant or has it been terminated? If it has been terminated, when was it terminated, by what means was it terminated, and why has the government kept this fact so close to its chest?

MR HUMPHRIES: Mr Speaker, my recollection of what I said yesterday is that I did not know whether the inquiry was technically dormant or whether it was terminated. I have not seen the *Hansard* for yesterday so I do not know exactly what I said, but that was what I was trying to impart.

Mr Kaine: I am telling you what you said.

MR HUMPHRIES: I did not know, and I still do not know, until I heard Mr Kaine's question, whether the inquiry had been formally terminated or not. I had no advice about that. You told me just now that in fact it has been formally terminated. It was obviously done by my predecessor. I assume it was done by my predecessor. I will find out for Mr Kaine's benefit when it occurred and why. As to keeping it secret, I would not have thought it was such a surprise to learn that, with a comprehensive inquest under way, the other exercise of an inquiry under the Inquiries Act should be abandoned. The reason, Mr Speaker, has been well and truly on the record in this place in terms of the concerns this government has raised about the potential conflict between an inquiry under the Inquiries Act and a coronial process under the legislation governing the coroner's inquiry.

Mr Speaker, I have just been handed advice which says that Major General Smethurst handed back his commission in 1999 after the coronial inquest findings were released. That appears to be the situation. It was not terminated by the government. It was, in fact, terminated by the inquirer himself.

MR KAINE: Mr Speaker, given that sections 14 and 14A of the Inquiries Act require a final report in such a matter, can the Chief Minister inform me whether or not Major General Smethurst did in fact table a final report at the same time as he returned his commission? If not, why not?

MR HUMPHRIES: I am sure he did, Mr Speaker, because he did not conduct an inquiry.

Employment

MRS BURKE: My question is to the Chief Minister, Mr Humphries. I refer to a media release issued by Mr Berry on 11 January 2001 calling on the ACT government to announce its plans to deal with the predicted fall in employment in the ACT. I think it should too. Can the Chief Minister advise the Assembly of the government's strategy to create jobs in Canberra?

MR HUMPHRIES: I thank Mrs Burke for that question. Yes, I have seen the press release from Mr Berry entitled, intriguingly, "Where's the plan?" That did cause me a little bit of interest, and I have looked into what Mr Berry had to say. Mr Berry, of course, has misunderstood the jobs figures. Apart from anything else, he has perhaps deliberately or perhaps accidentally—who knows?—chosen to blur the distinction between original and corrected figures, but that would not be anything unusual for Mr Berry.

Mr Smyth: Simplistic analysis yet again.

MR HUMPHRIES: Simplistic analysis yet again. Anyway, put that to one side. We have come to expect that. We know that is going to be the case.

The government's plan is the plan which has produced 17,000 new jobs in this territory in the last six years. It is a plan, however you want to describe it or however you want to denigrate it, which is obviously working. If you look into the detail of what we have done in the last six years, you will see that this is no accident. In 1996-97 and 1997-98, for example, our budgets deliberately targeted jobs for Canberra. We saw the challenge presented by the changes at the Commonwealth level, and our budgets focused on jobs for Canberra—and in a big way. Programs like Youth 500 and Youth 1000 targeted employment for young people. It is no coincidence that employment rates for young people have improved dramatically over that time.

We established the Australian Capital Region as a partnership between the ACT government and 17 regional councils in south-east New South Wales to focus on how between us we can keep our economy moving and jobs being created.

We have invested heavily in advanced technology and tourism. I have heard those opposite claim that the government has only recently acquired an interest in IT. My recollection is that every second time Mrs Carnell opened her mouth in this place or outside it was to talk about technology, to talk about jobs and growth in the IT industry in particular. You would almost be tempted to say she was obsessed about it. The figures are there to reinforce that. Ninety per cent of telecommunications employees in the ACT intend to hire new staff in this territory in the next quarter.

In 1995, 50 per cent of jobs in Canberra were in the private sector. In 2000 that figure had risen to 58 per cent. The advanced technology sector has generated considerable job growth in the territory. There are now 800 advanced technology companies operating in the ACT. A large proportion of those have come to the ACT in the last six years. The ACT has 1½ per cent of the Australian population, but we have 6 per cent of the Australian IT industry in this city. That growth has manifested itself in growth in employment.

In the years we have been in office we have increased funding for tourism and regional promotion by more than 80 per cent. The government is working hard to continue that job growth. The budget initiatives announced today and the capital works program announced this week further support that work. Mr Quinlan might be bored by this and yawning about it, but a lot of people are pretty happy about the fact that job growth has taken place in this city and are not taking this for granted.

The real irony of this statement "Where's the plan?" is that it comes from a party which palpably has no plan in this area. All we have heard from the opposition, an opposition which has been there for six years now, is that you do not agree with what we are doing. You are opposed to what the Liberal Party is doing.

Mr Smyth: No, they agree with health, with Mr Moore.

MR HUMPHRIES: From day to day it changes. You say, "Where's the plan?" You have not produced a plan of any sort since "Working Capital" more that three years ago. I understand you asking, "Where's the plan?" Your last plan was not a great success. The plan you put on the table for job growth in this city, entitled "Working Capital", was described by Chris Richardson of Access Economics as magic pudding financing.

I resent being accused by a person who quite obviously has no plans for jobs growth in this city that we do not have a plan. Our plan has created 17,000 new jobs in this city in the last six years. "Working Capital", thank goodness, never got the chance to produce a single job, although I note from looking back over the clippings that a then Labor election candidate and accountant, one Ted Quinlan, said that he fully backed the opposition's economic policy, which of course was "Working Capital" at that time. No doubt, Mr Quinlan was part of the working party sent out shortly after the 1998 election in a truck to the back of the Brindabellas to find a very deep hole and bury "Working Capital" there.

The fact is that our record speaks for itself. Our record is one of achievement of job growth in this territory, and I do not think anybody needs to look past those figures. The record of the past three years speaks for itself. It has been a proud record of jobs growth.

I do not believe Mr Berry, with a cheap line like "Where's the plan?", detracts one iota from the strength of that record over that period.

Belconnen Remand Centre

MR HARGREAVES: Following the non-answer to Mr Corbell about suppressed reports from the Minister for Urban Services—

Mr Corbell: He's just a very slow reader, John.

MR HARGREAVES: That's a shame. I want to ask a question about another suppressed report, this time from the minister for corrective services. Minister, the New South Wales Department of Corrective Services has audited the Belconnen Remand Centre security after three inmates escaped in July last year. I understand that a second investigation is under way after Mathew Massey escaped from the BRC in November. Will you release the reports so that proper scrutiny and accountability of the ACT correction systems can occur, and will you immediately release the first report?

MR MOORE: This is absolutely unbelievable, Mr Speaker. This is the man who constantly accuses this government of being secretive. The example he uses in the press about being secretive is that we do not release a report on the security of the Belconnen Remand Centre. What do you think about that, I ask rhetorically of you, Mr Rugendyke? Who should we publish it through first? Let us say we give the first copy to the inmates so they know exactly where there are weaknesses in the Belconnen Remand Centre. Then we will do the visitors so they know how to suss them out. Then, thirdly, we should send it across to people who are likely to wind up in the Belconnen Remand Centre or who have been there and might be back again so they know what to do.

Mr Hargreaves: So you are not going to fix it up?

MR MOORE: Are we going to deal with security at the Belconnen Remand Centre? Mr Hargreaves knows that we recently put an electric fence around the roof of the remand centre. He knows that the roof from where Mr Massey escaped has been covered with mesh.

Mr Stanhope: The roof he punched his way through.

MR MOORE: Yes. It has been covered with mesh. More importantly, what we do know is that the Belconnen Remand Centre is totally inadequate. That was one of the first things I said. I know that Mr Humphries has been saying that for some time. That is why we are setting about building a new one.

Mr Rugendyke: What about home detention? You picked up my idea.

MR MOORE: And why we have just announced that $350,000 will go towards introducing what Mr Rugendyke raised prior to the last election, home detention. Home detention will not resolve all the problems of the Belconnen Remand Centre, and that is not its main goal. It may ease the pressure somewhat. We are looking at other methods as well to ease problems at the Remand Centre. Let us come back to the real question. Will I release the report on the security of a prison? Don't be stupid.

MR HARGREAVES: Mr Speaker, I am cut to the quick by being called stupid. Is that unparliamentary?

Mr Moore: I withdraw the word "stupid", Mr Speaker.

MR SPEAKER: Thank you.

MR HARGREAVES: I thank the minister for the quickness of that response. My supplementary question is this: is this government going to follow the transparent and accountable approach that the Kennett Liberal government adopted to corrections, and we all know what happened to him?

MR SPEAKER: I don't think that really requires an answer.

MR MOORE: Mr Speaker, this government is still the most transparent and open government in Australia. Just today this government released a draft budget process. We are going through a very open process. What was the reaction of those opposite? We will not do that. Oh no, we are going to tighten things down and keep it secret.

Let me give another example. Who is it in the Assembly who refuses to publish the reports of the travel that you do? Who is it amongst you? Perhaps, Mr Speaker, it is you. Our executive publishes quarterly reports on where we travel all the time.

Opposition members interjecting—

MR MOORE: Mr Humphries, the Chief Minister, as did Mrs Carnell before him, has commented on a number of occasions and said that we produce our quarterly reports of our travel and what we are doing—

Mr Stanhope: Yes, I go to Belconnen. I am happy to report that.

MR MOORE: Mr Stanhope interjects that he goes to Belconnen and, of course, the Caribbean. Let us not forget the Caribbean.

MR SPEAKER: If he keeps injecting he might just be going upstairs.

MR MOORE: There was the Caribbean too, Mr Stanhope.

Mr Corbell: We won't talk about the trip to London.

Mr Hargreaves: How about London then?

MR MOORE: Indeed. I published my report when I went to London.

Mr Hargreaves: Yes, just like Mr Stanhope. Withdraw the inference.

MR MOORE: Indeed. The point I am making is that you had an opportunity to show that you are not secretive. We are very open. We are the most open government in Australia. We will remain that. But as open as we are, we are not going to publish the details of security problems in a centre designed to incarcerate people.

Project Saul

MR RUGENDYKE: My question is to the Treasurer, Mr Humphries. Minister, I understand that the ACT government provides annual funding from the budget or through the grant system specifically earmarked for Project Saul. Could you advise the Assembly how much money, if any, has been provided for Project Saul over the last five years by the ACT government?

MR HUMPHRIES: Mr Speaker, no, I cannot advise Mr Rugendyke about that. Project Saul is a very important project. It is one that the government is very happy to endorse and, I think, support financially. I will find out, Mr Rugendyke. I think it fits in very well with the agenda—an agenda that emphasises the building up of Social Capital, taking kids who are at risk, giving them the opportunity to be mentored or nurtured by the involvement of a number of people, particularly the police, and assisting them to find a path out of a possible behaviour of criminality. So I think that is a very appropriate kind of program. I will see to what extent the government actually backs that support with money.

MR RUGENDYKE: Thank you, Minister. I have seen the financial statements for Project Saul and there is no record of ACT government money being received on an annual basis. If it is the case that there is grant money going to Project Saul, could the minister ask the AFP what they have done with the money specifically earmarked for Project Saul and how it has been acquitted?

MR HUMPHRIES: Yes, I will find out, Mr Speaker.

Disability Services—funding

MR WOOD: My question is to Mr Moore. Minister, I welcome the announcement of some additional funds for Disability Services, but isn't it too little, too late? Isn't it the case that your resistance to the inquiry now under way and the revelations from the coroner's inquiry make it clear you have been shamed into action?

MR MOORE: Mr Speaker, no.

MR WOOD: He certainly didn't want to debate it, did he? But I'm not surprised.

MR SPEAKER: It was very close to an expression of opinion.

Mr Moore: Mr Speaker, on a point of order: Mr Wood has just used a preamble.

MR SPEAKER: It came very close to being an expression of opinion. I suppose you are lucky you got an answer at all.

Mr Moore: How can you have a supplementary to "no"?

MR SPEAKER: We are about to find out.

MR WOOD: We didn't get a debate on the issue—did we?—but on something else instead. My supplementary question to the minister is this: do you expect the $1.5 million will be anywhere near enough, given the high levels of documented unmet need in this area?

MR MOORE: Actually, Mr Speaker, I don't think $1.5 million will be enough. That is why we are putting in $500,000 this year, which will be increased so that, in effect, it is $2 million next year and $2 million the year after. That will be a very good starting point, no doubt.

Mr Wood will have the opportunity, when he examines the budget, to make a suggestion that we should put in more money to Disability Services. We will certainly look at that because this open government is prepared to listen to suggestions about our budget. We will be very keen to see where you think the money should come from. But, Mr Speaker, I have to say that I will be very willing to take to cabinet and to the budget cabinet meetings any suggestion of an increase even beyond that for Disability Services.

Yuruana Centre—funding

MR BERRY: My question is to the Minister for Education. It comes in the wake of the government's humiliation over expenditure in our education system and it being shamed into its move on class sizes in the territory. It also comes in the wake of the government's knee-jerk response to it being shamed again in relation to indigenous education facilities within our school system. I am going to give the minister the opportunity to paper over another crack in the sixth year of this tired old government.

My question relates to the crisis situation in relation to indigenous education at the CIT Yuruana Centre. The federal Department of Education, Training and Youth Affairs has cut funding for Yuruana by $170,000, a cut that will continue for the 2001-2004 quadrennium. The cut will lead to a halving of the centre's staff, I am informed. We are not surprised by this cut because it comes from of a government that can't say, "Sorry."

The Chief Minister was informed of this problem in December last year—was that you? Yes, I expect it was—when he suggested that the centre approach the Minister for Education. I understand that the Minister for Education has been approached. We have all been around the merry-go-round. What are you going to do about it, Minister? How about papering up the cracks on this one?

MR SPEAKER: You cannot announce executive policy, Minister.

MR STEFANIAK: No, I cannot.

MR SPEAKER: I am just warning you. I will not allow it.

MR STEFANIAK: I might have to check on that, Mr Berry. I certainly know somebody has mentioned something to me in relation to that. In terms of anything in writing, I will certainly have a look at that. I am aware of some problems. I am also aware that the centre and the CIT are trying to sort that through.

I would refer you to our budget in terms of indigenous education, Mr Berry. The Yuruana Centre, of course, was set up while we were in government. The centre recently won some additional funding through adult and community service grants, which was particularly pleasing as well. In terms of initiatives for the indigenous population, if you look at out recent draft budget, Mr Berry, you will see a wide-ranging number of initiatives, including, I might say, at the CIT, $100,000 for scholarships especially targetting indigenous students. There is a fair bit there.

Mr Berry, I am happy to look into that matter further. I don't know that you can expect this government to pick up every single program the federal government drops.

I am also, off the top of my head, uncertain whether representations in relation to that are likely to be successful. However, Mr Berry, I am certainly happy to look into that matter further. I do point out those facts, including the very successful bid by the Yuruana Centre only recently to get some extra monies in relation to adult and community education.

Mr Moore: I ask that further questions be put on the notice paper.

Nurses—Canberra Hospital

MR MOORE: Mr Speaker, I would like to elaborate on an answer I gave to a question from Mr Stanhope, who quoted from the *Canberra Times.* I present the following paper:

> Nursing staff—Wages offer—Facsimile copy of minute from the Chief Executive, The Canberra Hospital to all nursing staff, dated 14 February 2001.

I will quote just a couple of pieces. The circular reads:

> I am writing to you to address a number of questions that I believe have arisen in relation to the Government's offer to Strengthen the Nursing Workforce.
>
> Will the pay rise be funded by cuts to the hospital's budget?

That was the fundamental question that Mr Stanhope asked. Mr Rayment says clearly:

> No. The offer is additional to our normal budget and there are no funding cuts or offsets required other than the reforms included in the variation. Staff need to know that the offer is at risk if we do not access the funding now. TCH is not in a position to fund such a pay increase at a later date.
>
> Is the pay rise just a catch up to bring us into line with rates of pay for nursing staff in the States?
>
> No.

He gives an example. The circular continues:

> Does extending the Agreement by another year limit the capacity of nursing staff to take protected industrial action in relation to occupational health and safety issues?
>
> There are appropriate forums now for addressing these types of issues…
>
> Will suggested changes to rostering arrangements be imposed on staff?
>
> The variation makes it clear that the hospital remains committed to normal rostering patterns…
>
> Will our ability to attract nursing staff be affected by the wages offer?
>
> We are already competing for nursing staff in a very competitive marketplace. Calvary nurses have now voted to accept the Government's offer. It is important that we remain competitive to attract and retain nursing staff.

Then he comments on the RN level 2 nurses and reassures them about grandfathering. Mr Speaker, I think that circular does help Mr Stanhope, which is why I have just tabled a copy of it.

Suspension of standing and temporary orders

MR QUINLAN (3.44): Mr Speaker, I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Quinlan from moving a motion concerning the Budget announcement made by the Treasurer to the media.

Mr Speaker, within the first few weeks of coming to this place, I was given a confidential briefing by the then Chief Minister on the TAB, and Mr Corbell and I were given some documents. Clearly, those documents were confidential. I next saw those documents about an hour later in the hands of the media. There was a debate in this place and, in fact, it took some time to get the Chief Minister to table the actual documents that she gave out.

Things have not changed much in the time that I have been here. Maybe I have become a little more cynical or less naive. Today, as I understand it, the Treasurer conducted a press conference and issued a series of press releases as to all of the government's initiatives in the draft budget. I have a copy of those press releases now, because my staff went and asked for them.

Mr Speaker, I think that you should be taking great interest in the way we are doing things around here these days. The Chief Minister and Treasurer of this territory has virtually revealed the full detail of the draft budget to the media and other stakeholders—I was talking to the president of the teachers union, who also happened to have a series of press releases—and I question the standards now being set that permit the Chief Minister and Treasurer to treat parties outside the Assembly—

Mr Moore: This motion is about the suspension of standing orders. You cannot speak to the substantive motion.

MR QUINLAN: I am debating the gravity of the question and the motion that I intend to move.

MR SPEAKER: Yes, you are at the moment. You may not debate the motion itself, but you may put a case for the suspension of standing orders.

MR QUINLAN: I think it is necessary that this house, the ACT Assembly, at least debate the issue and then invite the Treasurer to have the courtesy to give it the information that he is prepared to disseminate outside this place.

MR STANHOPE (Leader of the Opposition) (3.47): Speaking in support of the points made by the shadow Treasurer, my colleague Mr Quinlan, it really is quite rank as far as I am concerned that we, through question time today as well as in many of the Chief Minister's media comments in recent times, have been treated in this way over this so-called consultative draft budget process.

It is an insult to the parliament, it is an insult to each of the members of this place, it is a contempt of this place that the Chief Minister should reveal to parties unknown to me all of the details of his draft budget without doing the courtesy of advising anybody in this place what his plans are, what his intentions are, what the content of that draft budget is. He was in here today talking about some of the things he is going to do, beating his breast and speaking, as far as we are concerned, in tongues about some of this government's initiatives in the draft budget process. None of us in here have any idea what it is that he was talking about, what it is that he was alluding to.

That is not a disability suffered by any of the media in town and it is not a disability suffered by any of the other stakeholders that the government chose to embrace in this budget process, but there was no advice to the members of this place, no advice to the elected representatives, no indication to the members of the Assembly of any of the detail of this draft budget. This is the much vaunted draft budget process. This is the open, transparent and consultative draft budget process, a process that excludes any one of the members of this place who is not a part of the government. It treats us with absolutely no sincerity. That shows the hollowness, the absolute sham, of this process, a process that the government boasts about, a process that it holds up as a model of open consultative government.

The documents have been released, the cat apparently is out of the bag, the Chief Minister stands up in this place and beats his breast about the noble things that he and his government are doing, and he keeps those of us on this side of the house in complete ignorance of the government's plans. It is a genuine contempt of the members of this place. It is treating the parliament with contempt. It is government by press release. We are talking about something as significant as the draft budget and the Chief Minister and Treasurer does not have the common decency, the courtesy, to advise the members of this place of the detail of the draft budget. That highlights what a sham the process is.

Mr Corbell: Hollow men, hollow words.

MR STANHOPE: Absolutely, a hollow process, hollow men, a hollow government, a desperate government, a government without the courage to advise the members of this place of its proposals. It shows an absolute lack of courage in relation to this government's preparedness to face other representatives in this place.

The motion that Mr Quinlan wishes to move would provide the Treasurer with an opportunity to right that wrong, to come in here and have the courage to face the other elected representatives of this place and tell them what it is that he proposes to do, rather than just telling the media that he gathered together and those other stakeholders that he felt comfortable addressing. He could do the right thing by coming in here and redressing that wrong, that insult to the parliament, that contempt of this place.

MR MOORE (Minister for Health, Housing and Community Services) (3.51): Mr Speaker, we are very relaxed about the suspension of standing orders, but this is the time for private members business. Mr Rugendyke did not know about this debate. I wonder whether Ms Tucker and Mr Kaine knew that Mr Quinlan was going to move this motion for the suspension of standing orders. At the same time as that, Mr Stanhope is accusing us of not consulting, of not talking to him and of shams and more shams.

I can understand Mr Stanhope's embarrassment. We are very happy to debate this subject, but let me ask a question of Mr Stanhope. When was the last time that you gave us a copy of a press release before you put it out, Mr Stanhope? Let us take something much more serious. How do we find out about no-confidence motions? How has any member of this government found out about a no-confidence motion while you have been Leader of the Opposition? I will tell you; we have read about it in the paper. This is from the Labor opposition which will not even do a draft budget: "We are going to keep it a little secret and then we are going to announce it when we are ready."

Mr Speaker, we will be guided by the crossbenchers on the suspension of standing orders to debate this issue. I understand that Labor wants to debate this issue and change the program for today for private members business. Let us hear from Mr Kaine, Ms Tucker, Mr Rugendyke, Mr Osborne, Mrs Burke and Mr Hird. If they are all happy to debate the whole issue of the budget, of course the government would be happy to debate it because it has some great stories to tell.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.53): Mr Speaker, it is curious that Mr Stanhope would stand and speak to this motion. He is the person who promised a new face for Labor when he was elected Leader of the Opposition: they were not going to react to stunts; they were going to be consultative; they wanted to be involved; they wanted to turn over a new leaf; and they wanted to prove to the community that they had listened. Should we revisit the Aird-Beacham report?

I had a year in opposition in the federal parliament when Mr Stanhope worked for the government there, the government that was ejected rather severely in 1996. They never once invited opposition MPs or senators to their launches. We see double standards from Labor all the time. The point here today is that they do not have a credible response to the initiatives that the Chief Minister has put on the table. They are mute, they are speechless, they are stunned. They cannot counter what Mr Stefaniak has helped the teachers do and the extra funding that we have for education. They cannot counter what

Mr Moore has put on the table in his offers to nurses. I noticed in a *Canberra Times* article that Mr Stanhope, when queried about Labor's health policy, said, "Our health policy will be pretty much what Michael Moore is running." That is really interesting. According to Leah De Forest in the *Canberra Times* of 7 February:

> ACT Labor's health policy would not be substantially different from Health Minister Michael Moore's, Opposition Leader Jon Stanhope said yesterday.

These are the hollow men who now wish to waste the time of the Assembly. They are actually wasting the time of the crossbench. This is a decision for the crossbenchers. If they wish to waste their time in mock games, in pretend theatre, because they have no substantial answer to the initiatives that the Chief Minister has tabled today, let us bring on the debate.

MR KAINE (3.55): Mr Speaker, the Manager of Government Business just said that if we continued with this debate he would reveal all. I think that was the general thrust of what he said. I cannot wait because it would be a first. All I can say is: let us have the debate and let the government reveal all, because I would love to hear what they have to say for once.

MS TUCKER (3.56): I do not want to support the suspension of standing orders now to have this debate because I do want to get through the business that we had arranged and agreed to get through. I would be happy to have that debate later if Labor wants to move for the suspension of standing orders at the end of business listed on the program.

MR BERRY (3.57): Let me just explain to Ms Tucker that that was before the government secretly issued a press release about a draft budget. It was just a moment ago that I heard them talking about how open, accessible and transparent they are, but here we are talking about a draft budget for the territory and you have just—

Mr Moore: That is how we have been transparent; we have put it all out on the table.

Mr Stanhope: Which table?

MR BERRY: Not on the table here, Michael, so do not start that rubbish with me. Mr Speaker, I respect Ms Tucker's anxiety about the issue, but this motion is about something that is important for the territory and I would urge her to change her mind on the matter.

MR HUMPHRIES (Chief Minister, Minister for Justice and Community Affairs and Treasurer) (3.58): Mr Speaker, I am sure that it pays not to leave the chamber on days like today. I think I need to put on record the context in which this request for a statement by me on the draft budget is being made. Mr Speaker, I do not think any of us would be unaware of the continuous attack which has been made over the last two years by the opposition on the very idea of there being a public consultation exercise around the draft provisions of the budget.

Mr Stanhope: That is not what we said.

Mr Hargreaves: We are being Gary-ed again.

MR SPEAKER: Settle down.

MR HUMPHRIES: Mr Speaker, I do appeal to you for a bit of protection in the course of this debate.

MR SPEAKER: I am just reading up on this very point, Chief Minister.

MR HUMPHRIES: I do think that it is important to put these facts on record in a very clear way. Mr Speaker, the opposition in particular has systematically repeatedly sabotaged this process, completely refused to see it go forward in any sort of cooperative fashion and repudiated the government's plans at every turn. We have put these proposals on the table and on each of the two occasions we have done so they have attacked them as a sham and as being unable to be the basis for proper debate. They have found every reason in the world to tell us why the process is not working properly.

Mr Speaker, it is hardly surprising in the circumstances that the government has chosen in this way to go over the heads of those who do not seem to believe that it is appropriate for the government to be sharing its budget with them and, instead, put that information directly into the public arena of the ACT. I do not get Mr Quinlan's, Mr Stanhope's or Mr Berry's press releases delivered to my door. I doubt if other members do, either.

MR SPEAKER: Order! The time for the consideration of the motion for the suspension of standing orders has expired. I am therefore required to put the question.

Question put:

> That **Mr Quinlan's** motion be agreed to.

The Assembly voted—

Ayes 6		Noes 9	
Mr Berry	Mr Stanhope	Mrs Burke	Mr Osborne
Mr Corbell		Mr Cornwell	Mr Smyth
Mr Hargreaves		Mr Humphries	Mr Stefaniak
Mr Quinlan		Mr Kaine	Ms Tucker
Mr Rugendyke		Mr Moore	

Question so resolved in the negative.

Paper

MR MOORE (Minister for Health, Housing and Community Services): Mr Speaker, in the spirit of openness, I happily table a copy of the press release that Mr Humphries released at lunchtime today. I present the following paper:

> ACT Budget initiatives reinvest in the Canberra community—Copy of media release by Gary Humphries MLA.

Questions without notice
Act-of-grace payments

MR HUMPHRIES: Yesterday, Mr Quinlan asked me about the instruments by which a delegation existed for act-of-grace payments to parties. Delegations are made under section 64 of the Financial Management Act. They are delegations within the Department of the Treasury. The Chief Executive and Deputy Under Treasurer has a monetary limit of $5 million for authorisation. The Director of Budget Management has a limit of $50,000. The Director of Revenue Management has a $5,000 limit.

I table that instrument. I present the following paper:

> Administration Act—Schedule of delegations for Act of Grace payments—Answer to question without notice asked of Mr Humphries by Mr Quinlan and taken on notice on 13 February 2001.

I am surprised that Mr Quinlan asked for it because he actually asked for it a year ago and I gave it to him a year ago; anyway, there it is again. Mr Speaker, the act-of-grace payment to Deutsche Bank was a payment made pursuant to a delegation to the Under Treasurer and did not involve the Treasurer.

Personal explanations

MR BERRY: I seek leave to make a statement under standing order 46, Mr Speaker. I claim to have been misrepresented.

MR SPEAKER: Please proceed.

MR BERRY: During question time, Mr Humphries made certain claims about a press release which he said that I had issued in relation to unemployment. He said that I had claimed that unemployment had risen by 0.3 per cent, when it had been by 0.1 per cent. Mr Speaker, the most recent press release that I issued on the matter was released on 8 February. It made the point that 8,500 Canberrans were unemployed, up from 8,100 in October—that is, 400 more were seeking employment—and we had a thousand 15 to 19-year-olds looking for full-time work, but there were 600 fewer full-time jobs in January.

It is well known that after a time lag from a fall in job ads unemployment worsens. The ACT job ads have been falling for six months and for the fourth month full-time jobs have fallen. We now have 1,900 fewer full-time jobs than we had in September 2000. In future, if Mr Humphries is answering a dorothy dixer in relation to my press releases, I wish he would be truthful.

MR SPEAKER: Thank you; you have made your personal explanation.

MR BERRY: Mr Speaker, I seek leave to table the press release.

Leave granted.

MR BERRY: I present the following paper:

Unemployment rises—Copy of media release by Wayne Berry MLA, dated 8 February 2001.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Speaker, I also seek to make a personal explanation under standing order 46.

MR SPEAKER: Please proceed.

MR HUMPHRIES: I did not in my remarks attribute Mr Berry's misrepresentation on that subject to his press release. In fact, I made—

Mr Stanhope: You attributed it to a vacuum.

MR HUMPHRIES: No, I do not think that I did. His comments occurred in the report run by WIN News. I quoted his press release, but I did not say that his press release was the origin of that misrepresentation.

Opposition members: Oh!

MR HUMPHRIES: Go back and check the *Hansard*. It is in the *Hansard*. However, Mr Berry was quoted on WIN News as purporting to say that there had been an increase of 0.3 per cent.

Mr Quinlan: And you knew that was different.

MR HUMPHRIES: Yes, I did, Mr Speaker. That is the origin of that comment by Mr Berry and it was wrong.

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

MR SPEAKER: Please proceed.

MR CORBELL: Mr Speaker, in question time today, the Minister for Urban Services claimed in answer to a question I asked him about private certification in the ACT building industry that I had complained that no review had been undertaken, despite his promise to conduct such a review. I would like to clarify that, Mr Speaker. My question said that it is now over two years since private certification was introduced into the ACT building industry and no review has been completed. Mr Speaker, the minister misrepresented me on that point.

Also, in response to a matter in question time today, Mr Moore claimed that I and other Labor members did not table records of our travel undertaken through Assembly budgets. I would like to place on record that I—I am sure that I can vouch for my Labor colleagues in this regard—regularly table the reports required of us in relation to travel undertaken by use of our Assembly accounts.

Papers

Mr Stefaniak presented the following paper:

> Purchase agreement between the Attorney-General and the Chief Executive of the Department of Justice and Community Safety for 2000-2001—Addendum.

Mr Smyth presented the following papers:

> Land (Planning and Environment) Act, pursuant to section 29—Variation (No 140) to the Territory Plan relating to the existing produce market sites at Greenway section 2, block 5 and Belconnen section 31, block 5, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Urban Services—Standing Committee
Report No 64

MR HIRD (4.08): I present the following report:

> Planning and Urban Services—Standing Committee—Report No 64—Draft variation (No 162) to the Territory Plan—Mini-hydro power plants at Cotter and Corin Dams, dated 6 February 2001, together with a copy of the extracts of the minutes of proceedings.

Mr Speaker, you authorised the printing, publication and circulation of this report on 8 February 2001, pursuant to the committee's resolution of appointment. I move:

> That the report be noted.

Mr Speaker, I will be brief in tabling this report. It deals with draft variation No 162 to the Territory Plan. The draft variation proposes to amend the schedules as part C2 of the water use and catchment policies to allow for the construction of a mini-hydro power station at the Cotter Dam and Corin Dam. The committee took into account submissions lodged with the planning authority, PALM. We also held public hearings on the issue.

The committee noted that the proposal is consistent with ActewAGL's green power scheme and that the impact of the mini-hydro power station will be monitored by both the Cooperative Centre for Fresh Water Ecology and the Conservator of Flora and Fauna. We saw no reason to delay or amend the variation; hence, our recommendation that it be endorsed. Might I just say, in closing, that this is an historic moment for the territory community inasmuch as we will be producing our own electricity by way of a mini-hydro power station. I commend the report to members.

Question resolved in the affirmative.

Report No 65

MR HIRD (4.10): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 65—Draft variation (No 166) to the Territory Plan—Clearance Zone Policies—Lower Molonglo Water Quality Control Centre, dated 6 February 2001, together with a copy of the extracts of the minutes of proceedings.

Mr Speaker, you authorised the printing, publication and circulation of this report on 8 February 2001, pursuant to the committee's resolution of appointment. I move:

> That the report be noted.

Mr Speaker, the 65th report by the Planning and Urban Service Committee deals with draft variation No 166 to the Territory Plan. This draft variation proposes to restructure the Territory Plan to create a new overlay provision for clearance zones. Clearance zones preclude the construction of any structure used for long-term habitation within the zone.

Members will note that the first application of this new provision is in relation to the Lower Molonglo Water Quality Control Centre. Following public hearings on this matter, the committee is happy to endorse this draft variation. I commend the report to the house.

Question resolved in the affirmative.

Report No 66

MR HIRD (4.12): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 66—Draft variation (No 118) to the Territory Plan—Heritage Places Register—Yarralumla Brickworks, Yarralumla and Federal Capital Commission (FCC) Type 15 House, Forrest, dated 6 February 2001, together with a copy of the extracts of the minutes of proceedings.

Mr Speaker, you authorised the printing, publication and circulation of this report on 8 February this year, pursuant to the committee's resolution of appointment. I move:

> That the report be noted.

Mr Speaker, I have pleasure in tabling report No 66 of the Planning and Urban Services Committee. The report deals with two additional entries to the Heritage Places Register: the Yarralumla Brickworks and the Federal Capital Commission-type 15 house located in Forrest. The committee endorses these entries.

In doing so, the committee would like to draw members' attention to the significance of the Yarralumla Brickworks. It is appropriate in this year of the celebration of the centenary of federation to recognise the role of the brickworks in the development of the national capital. We strongly recommend that any proposal for adaptive reuse of the brickworks be thoroughly scrutinised to ensure that the heritage value of this site remains

protected. It is interesting that the kilns at the brickworks are rare kilns inasmuch as they were originally from Scotland and are rarely found outside Scotland. Australia—indeed, Canberra—is the only known source. I commend the report to members.

Question resolved in the affirmative.

Land (Planning and Environment) Amendment Bill 2000 (No 5)
Detail stage

Clause 4.

Debate resumed.

MR CORBELL (4.14): Mr Speaker, I would like to speak again on this clause as a way of obtaining some clarification as to exactly the government's intention on this matter now. The Minister for Urban Services has circulated a revised amendment sheet which no longer has the amendment we are debating. I would like some clarification as to whether he still intends to press that amendment because it is not on his revised sheet. Mr Speaker, I think this highlights the shoddy and rushed way in which the government has dealt with these amendments. Again, the government seems to be playing catch-up on this issue.

MR SPEAKER: Mr Corbell, perhaps I could clarify the situation. The revised yellow sheet sets out amendments to amendments that have not yet been moved. If you examine the amendments on the yellow sheet you will see that there is no reference to the minister's amendment No 1. Amendment No 1 is still in existence and current. Extant, I think, is the word.

MR HIRD (4.16): Mr Speaker, I move the amendment that has been circulated in my name *[see schedule 1 at page]*.

Mr Corbell: Tell us what it is, Harold.

MR HIRD: The amendment reads as follows:

> **1**
> At the end of Mr Smyth's Amendment No 1, add the following:
> **"4A. Omission**
> Section 184B is omitted."

This is a procedural matter and it is to clarify the change of use charging regime. It also ensures that the section cannot be kept being amended to provide a new sunset clause date. This would continue the uncertainty that the government is committed to removing from the change of use charges. It is pretty straightforward. It is a procedural matter. When I was listening to the pearls of wisdom from the minister, I noted it and picked it up. I spoke to him during the lunch break. We are tidying up. As always with this government, we dot the i's and cross the t's and we always come up with a sensible approach to these matters.

MR CORBELL (4.17): Mr Speaker, quite frankly this is unbelievable. The government has just realised that if they adopt the amendment proposed by Mr Smyth before lunch they would amend the act to revert change of use charge to 75 per cent, and then the sunset clause would immediately take effect and it would go back to 100 per cent because they forgot to take out the sunset clause. That is very well thought through, I must say. That is why we now have the rather embarrassing situation of Mr Hird having to cover up the mistake made by Mr Smyth when he moved his amendment this morning.

Mr Speaker, there is a serious point to this: this government just does not know what to do with the change of use charge. This government has not put forward any substantive proposals of its own in relation to the administration of the change of use charge. It is playing catch-up on the issue and there is nothing on the table in this place. It has complained long and loud in the community about the impact of a 100 per cent change of use charge, but it has done nothing in this place to fix the problems it itself has raised. Why should this Assembly treat these government amendments seriously for one moment? I think Mr Hird has answered our question.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.19): Mr Speaker, I think the quote "he doth protest too much" is hiding Mr Corbell's embarrassment that his proposal would appear not to be going to be passed by the Assembly today. We all have come back to this place with amendments to amendments. Sometimes something is overlooked. Sometimes as debate clarifies a situation you add further amendments.

The proposition put by Mr Corbell that the government has never had a clear position on the change of use charge is somewhat ludicrous. The government, in response to the Nicholls report, agreed with the report and said that we would endeavour to reduce change of use charges to 50 per cent. We had that debate. Mr Corbell must have forgotten about that. We then said that we would prefer to see it stay at 75 per cent, and we had that debate. Mr Corbell conveniently forgets about that as well. Indeed, he was warned that his date of 31 January did present some difficulties, but we forget about that as well, quite clearly. This is standard; this goes on.

Mr Corbell started by asking whether or not the first amendment stood. Well, the first amendment had been moved and clearly it stands. I have to say that this procedure was followed on advice from the Clerk's office, and I am grateful for that advice.

MR OSBORNE (4.20): Mr Speaker, I have to say that I think the government's handling of this has been very unprofessional. It has been. It has been terrible. I made it very clear to both Mr Corbell and the government towards the end of September or October that I was prepared to consider 75 per cent. The government knew that the sunset clause was coming into place by whenever it was, 31 January or 31 December, yet the only piece of legislation to hit the table was Mr Corbell's. We really have seen the government scrambling today, and I think it is very unprofessional.

Nevertheless, Mr Speaker, I noted the challenge that came from Mr Corbell this morning to explain my reasons for supporting a 75 per cent change of use charge and I am pleased to be able to announce that I now have a policy on betterment. I do consider planning matters very carefully when I am required to, Mr Speaker, but, as I have mentioned

many times in this place, they are not issues that I actively pursue. I like to think that I do give them a lot of thought.

Unlike most members, when I became an MLA I had no preconceived position or ideological framework in regard to betterment. I have been able to look at the issues uncluttered and, from a number of sources, I cobbled together the framework for my decision for 75 per cent. The general principle with leasehold is that it is a lesser title than freehold. The person owning the underlying title, the government, wants to exercise some ongoing control over the use to which the land can be put. In other jurisdictions a continuous source is also available in the form of ground rent.

The ACT is unusual for two reasons. Firstly, the city has grown rapidly, so that uses, particularly in the centre, are no longer an efficient use of land. Secondly, the city has a lot of land held by charitable and sporting bodies and national associations. It is in the public interest that from time to time some of these holdings are redeveloped. Obviously, land is a public asset and the community has an interest when a parcel of land becomes more profitable when zoned for other uses. The public has a right to protect its interest and to ensure the community gets a fair return.

The question for us is to consider how much. The opposition's theory is that as the community owns the land it should receive the whole of the increase in its value when the land is put to a more valuable use. However, this thinking is flawed. There is no philosophical argument that ownership of land entitles the owner to all increases in its value. The ACT government, even though it is the owner of all the land in the territory, receives none of the increases in land sales resulting from such factors as population growth, location, changing demand, provision of schools, et cetera. The whole of that goes to the lessees, and always has.

The true value of land lies not in its ownership but in the right of occupancy, and it is the right of occupancy, owned by the lessees in perpetuity, not by the government, which is in demand for redevelopment. It is unrealistic to expect that lessees are going to release their right of occupancy of the land for redevelopment unless they receive some incentive to do so. In other words, both lessees and the government have rights and responsibilities in relation to land that is needed for redevelopment, and action is required by both parties before that can happen. If both parties do so there can be shared benefit. As most Canberra home owners have paid, and the government has received, the equivalent of freehold prices for a large proportion of the territory land, those home owners have a strong moral right to at least a portion of any added value as a result of the lease variation.

In the states where the freehold system prevails there is no equivalent to the change of use charge that home owners have to pay if the land is rezoned. It is a basic economic reality that the higher the tax the greater disincentive to continue an activity. There is no evidence to suggest that an exorbitant windfall is needed to encourage development.

Mr Speaker, the 75 per cent compromise has been in operation for some time with, I think, good overall results.

Mr Hird's amendment No 1, to **Mr Smyth's** amendment No 1, agreed to.

Question put:

That **Mr Smyth's** amendment No 1, as amended, be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Mr Smyth's amendment No 1, as amended, agreed to.

Clause 4, as amended, agreed to.

Clause 5.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services (4.29): I move amendment No 2 circulated in my name *[see schedule 1 at page]*.

Amendment agreed to.

Clause 5, as amended, agreed to.

Clause 6.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.30): Mr Speaker, I move amendment No 3 on the yellow sheet circulated in my name *[see schedule 1 at page]*.

MR SPEAKER: I hope everybody can understand this.

MR SMYTH: Mr Speaker, this is to make sure that when we have a consolidation or a subdivision the same change of use charge is applicable. These are all consequential to the first amendment to make sure that there is consistency across the entire act.

MR SPEAKER: I thought V1 and V2 referred to the Second World War, but never mind.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clause 7.

MR SMYTH (Minister for Urban Services**,** Minister for Business**,** Tourism and the Arts and Minister for Police and Emergency Services) (4.31): Mr Speaker, I move amendment No 4 on the yellow sheet circulated in my name *[see schedule 1 at page]*. It is the same again; it is a consequential amendment to the consolidation and subdivision and the calculation of change of use charge there.

Mr CORBELL (4.32): Mr Speaker, the Assembly should not be supporting this amendment. It should not be supporting this amendment because it removes the provision for remission of change of use charge in relation to consolidation and subdivision to be disallowed. This government is proposing to remove the provisions that allow remission of change of use charge for the consolidation of subdivisions to be disallowed.

I draw members' attention to section 187C, subsection (5) which says that regulations made under this subsection take effect on the day after the period of disallowance has expired. This government is attempting to remove provisions that give this place veto of regulations about remission of change of use charge. I would like the minister to stand up in this place and explain why he thinks the Assembly should not have the right to disallow these regulations, because that is the effect of his amendment.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.33): Mr Speaker, I think Mr Corbell misunderstands. Currently, the way the act is framed, it may allow the disallowance period to be up to 12 days. This place has decided already that the disallowance period should be six days. This makes this part of the act consistent with all the other disallowance periods of disallowable instruments, consistent with other acts. That is all it does. That is the advice I have from the public servants who have drafted this.

Amendment agreed to.

Clause 7, as amended, agreed to.

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

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.34): Mr Speaker, I move amendment No 5 on the yellow sheet circulated in my name *[see schedule 1 at page]*.

Amendment agreed to.

Remainder of bill, as a whole, as amended, agreed to.

MR SPEAKER: The question now is that this bill, as amended, be agreed to.

MR CORBELL (4.36): Mr Speaker, the Labor Party no longer will be supporting this bill. That may seem a strange circumstance as it is a bill that I proposed to this place and we are about to vote on it, albeit in an amended form. However, Mr Speaker, it is quite clear that the amendments have changed the complete intent of the bill as was initially

presented. We now have a situation whereby, if we approve this bill today, we will have a general level of remission of 75 per cent, and then, if you like, you could have a remission on the remission. That is the effect of these changes today. That is not a situation which we are prepared to support and we will not be supporting this bill.

I am very disappointed in the decisions today that a number of members have taken. I am disappointed because this does not resolve the problem. It does not resolve the problem of using a general remission to achieve a specific outcome. We had the opportunity today to amend the land act to use remission of change of use charge in a targeted way, in a specific way; in a way which actually would have helped achieve the outcomes that we, as a community, sought to achieve in development and land use planning in the territory.

Instead, Mr Speaker, we have gone down the path of saying it does not matter about the quality of your development, it does not matter about where you choose to redevelop or develop, it does not matter how you go about putting forward and putting together those proposals; we will give you a subsidy. It is a crude, sledgehammer approach to incentive in the development industry, one which this Assembly should be moving away from. Instead of doing that, we should be saying that we will use targeted remission. Unfortunately, that opportunity has now been lost.

The Labor Party will not be supporting this bill today, but I put on record that the Labor Party will continue to seek a targeted form of remission and change of use charge that actually meets the outcomes that we, as a community, desire in relation to planning and development in Canberra.

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

Ayes 8		Noes 7	
Mrs Burke	Mr Rugendyke	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Smyth	Mr Corbell	Ms Tucker
Mr Humphries	Mr Stefaniak	Mr Hargreaves	
Mr Kaine		Mr Moore	
Mr Osborne		Mr Quinlan	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Financial Management (Amendment) Bill 1998

Debate resumed from 23 September 1998, on motion by **Mr Osborne**:

> That this bill be agreed to in principle.

MR KAINE (4.41): Mr Speaker, I need to record from the outset that I cannot support this bill. I cannot support this bill because in accounting terms it is quite meaningless. It

uses terms like "prudent levels". Who is to determine, if it comes to the crunch, what a prudent level of liabilities or assets is? I do not know how the government could implement the provisions of this bill. It gives me some concern that the terms being used are absolutely undefinable.

Furthermore, having set down some principles of responsible financial management, maintaining prudent levels of assets as compared to liabilities and the like, and managing prudently the fiscal business of the territory, it then says that "the executive may depart from the principles specified in subsection (5)". If they do, a couple of things must follow. But who determines if and when the government departs from prudent levels of management?

If I were the Treasurer I would not know how to implement this bill, because what is prudent to one is not to another. I would guess that if Mr Humphries and Mr Quinlan had a little debate about what a prudent level of assets or liabilities is, or what constitutes prudent management of the fiscal risk, you would get no agreement between them. So I have great difficulty with the concepts that are being expressed here. They are good statements of motherhood.

I suppose, ideally, a government should maintain prudent levels of liabilities and assets so as "to provide a buffer against factors that may impact adversely on the level of total liabilities in the future", whatever that means. What factors that may impact adversely on the level of total territory liabilities in the future? There are factors that could not even be conceived of and could not be defined that could at some future time impact on that.

I think the same thing can be said about achieving and maintaining levels of territory net worth that provide a buffer against factors that may impact adversely on that net worth in the future. What on earth is likely to come up in the future, in the unforeseen future, that is likely to adversely impact upon the net worth of the territory? It could be anything at all. It could be an earthquake that destroys half the physical assets. How can you prudently manage to cope with something of that kind, such as a fire that destroys a lot of the assets that the territory owns. How can the government prudently manage to take account of such events? It cannot, because the government, essentially, self-insures. Even if it didn't, even if it went out to insure its assets, how could it value the assets that it is going to insure? Which assets would you insure and which ones wouldn't you insure?

So, Mr Speaker, while they are fine statements of motherhood, they do not provide a prescription by which the government can reasonably act, and in the event that the government does not act prudently, according to Mr Osborne's definition or mine, or Mr Quinlan's, what can we do about it? There are no penalties involved, no penalties prescribed for not "acting prudently". They are not in the Financial Management Act now, and this bill does not insert them. In fact, one of the problems with the Financial Management Act is that it describes all sorts of things that the government may or may not do, but there are no penalties if the government chooses to ignore them. We have already seen an aspect of that in recent months.

Mr Speaker, I cannot support a bill that in my view is totally meaningless. It is a bill that writes a prescription which I do not believe the Treasurer, any treasurer, could satisfactorily comply with. Even if you could define what prudent management is, there

are no sanctions that can be applied if the government fails or simply declines to act prudently, whatever that means, and I think the whole thing is a bit of a waste of time. I submit, Mr Speaker, that it is not a bill that anybody in this place ought to be supporting, with or without amendment, with due respect to Mr Quinlan.

MR QUINLAN (4.47): Mr Temporary Deputy Speaker, first of all, I think Mr Osborne means well by this bill. The boy means well, but let's face it. I think Mr Kaine, who has some expertise in the matter, has fairly well put his finger on the problem inasmuch as this bill is somewhat platitudinous and really does not have any effect. The Financial Management Act at this stage essentially guides the structure, format and requirements for financial management in the ACT. It is essentially a job description for the Treasurer regarding the budget, annual reports and associated financial documentation.

It would change the nature of the Financial Management Act if we moved from its largely procedural nature to make it more prescriptive in terms of the budget itself. We have seen today in question time where different accounting treatments, all of which may be technically legal, can produce different bottom lines. I do not think we really want to get any worse than we are at this very moment in relation to contriving a bottom line.

I will foreshadow the amendments that I have put forward. I think they improve technically those amendments that you are going to make. If necessary we will debate them, but at this stage we will not be supporting the bill at the in-principle stage anyway.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (4.49): Mr Temporary Deputy Speaker, I heard the comments made by Mr Kaine and Mr Quinlan in this debate and I think that, in particular, Mr Kaine's comments, at face value, are reasonable criticisms of the bill if we are to view those objectives or those requirements laid out in the bill as some kind of hard and fast formula which will be used by the Assembly or the community, or even the courts, to hold the Treasurer of the day or the government of the day to account.

It is pretty hard to haul somebody up before whatever particular court of public opinion or court of law it might be and say, "This man or woman broke the law. They did not comply with the terms of the Financial Management Bill 1998, clauses so and so and such and such." Mr Temporary Deputy Speaker, I do not think that is a reason for opposing this legislation.

I read the legislation in a very different way perhaps from Mr Kaine and Mr Quinlan. I see this as being a statement of objectives and a statement of principles to which governments are to be committed by virtue of their inclusion within the Financial Management Act. Indeed, the points that give Mr Kaine and Mr Quinlan so much trouble are described as "principles of responsible financial management". I do not think that the use of these as hard and fast rules is feasible, and I do not think it is intended that they be used in that way.

I want to quote, Mr Temporary Deputy Speaker, from the Health and Community Care Services Act 1996. You might wonder what this has to do with the Financial Management Act. Well, I just want to read from the objectives section of this act. It describes the Australian Capital Territory Health and Community Care Service which was established by that act. It says this:

> The objectives of the service are—
> (a) to provide health and community care services for residents of the Territory that promote, protect and maintain public health;
> (b) to maintain quality standards of health and community care services;
> (c) to take all measures to ensure the efficient and economic operation of its resources; and
> (d) to effectively coordinate the provision of health and community care services.

Section 6 describes the functions of the service as follows: "to promote, protect and maintain the health of the residents of the territory".

I can point, I am sure, to occasions when, I am sure inadvertently, the Australian Capital Territory Health and Community Care Service has not, in fact, promoted, protected and maintained the health of a resident or a number of residents of the territory. Saying that though does not detract in any way from the importance of having objectives in that legislation. If it is important to state in an act governing the territory's health services what the objectives and the principles under which the health services should be operating are, how much more important is it that there be principles governing one of the most significant and important functions which is performed by the territory as a body politic, the preparation and tabling of a budget?

Mr Temporary Deputy Speaker, you do not need my contribution to this debate to realise that budgets have been matters of great controversy and great debate, not just in their specifics but in their direction, ever since Adam was a boy. I do not think we are going to eliminate that by passing Mr Osborne's bill today. I have read through the provisions of clause 4 of Mr Osborne's bill and I do not think I can object to the broad direction which—

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! The Chief Minister has the call. Mr Osborne, you will come to order.

MR HUMPHRIES: Thank you, Mr Temporary Deputy Speaker. The details provided in clause 4 are, broadly speaking, supportable and appropriate. I do not know which of these I would seriously say is inappropriate, although, as members will see, I have circulated some amendments which I think clarify and improve the direction of the bill and which I think should be supported. Mr Quinlan has circulated amendments as well, but the objective here is appropriate. I think it is important that there be some affirmation on the part of the Assembly of what this bill is attempting to do.

The government takes the view that there does need to be a better context for debate about budgets on a year to year basis. The most important objective which this government has set for itself has been the elimination of the operating loss for the territory by the 2004-05 budget. As it happens, we have achieved it earlier than that, but that has been a very important objective. That is an objective we set ourselves not just because we thought it would be a fun thing to do, to make the many difficult decisions that would turn the territory's fiscus from a loss-making one to a surplus-making one, but because we felt it was important as a principle of budget objective, of management of the territory's position.

Incidentally, that is what Mr Osborne's bill actually does. It says that that principle of sustainability needs to be a guiding principle for every government that brings down a budget. It talks about balancing liabilities against our capacity to meet them. It talks about achieving and maintaining levels of territory net worth that are a buffer against factors that may impact adversely on that network in the future. That has been a guiding principle for this government, and I think it ought to be a principle for every government that runs the territory.

Perhaps I have a narrow perspective on these things, but I think staying in the black, being able to pay for your services without having to borrow on a year to year basis, is worth doing. It has been a great detriment to the territory that until very recently we did operate in a deficit situation, a loss situation. We might argue, as Mr Kaine suggests. Mr Quinlan and I might argue about the size of the operating loss. No doubt we will have that debate at some stage, if not today, but I think we all would agree that getting rid of the operating loss is a good thing.

Mr Quinlan: Yep. All those in favour.

MR HUMPHRIES: Staying out of the reach of an operating loss is also a good thing. On that point perhaps we do not have such agreement. I heard Mr Quinlan say on the radio yesterday that he felt that from time to time deficits were justifiable. Well, I might agree if, as Mr Kaine postulated, there is an earthquake and half the territory is wiped out and we need to get a lot of money fast to rebuild it, but short of that, no, there is not justification for going back into loss again. We need to stay in surplus. We need to stay liquid. We need to remain capable of delivering services on a day to day basis without borrowing from future generations for the capacity to deliver those services.

Mr Quinlan: Simple but noble.

MR HUMPRHIES: It is a simple but true proposition, I hear Mr Quinlan say, so I am pleased to hear support for this exposition of the government's philosophy.

Mr Quinlan: Just get on with it, for God's sake.

MR HUMPHRIES: Right, okay. Mr Temporary Deputy Speaker, I commend the bill to the house, and I thank the Assembly for supporting it.

MR RUGENDYKE (4.58): I rise to wholeheartedly support my dear colleague Mr Osborne, and I am horrified at the derision cast about this place by Mr Kaine. I note that Mr Quinlan used in his amendment—

MR TEMPORARY DEPUTY SPEAKER: Compose yourself, Mr Rugendyke. You have the floor.

MR RUGENDYKE: I apologise. Mr Quinlan, in his amendment, uses the word "prudently" only once. I think his amendment might be worth while. I wholeheartedly support my colleague Mr Osborne.

MS TUCKER (4.59): I am very concerned about this piece of legislation. I think Mr Osborne has been here long enough. He has had the opportunity since he introduced this bill to have learnt a lot more. We are seeing a much better quality of work coming from Mr Osborne now. I think it is very concerning if members do support this. I understand that Labor is trying to go into damage control with it in case it actually gets up. I am really surprised that Mr Humphries would consider supporting this. I certainly could not vote for it because I think it is bad legislation.

You do not make law that has these kinds of statements. How is this going to be adjudicated upon if it is thought to be wrong? I do not know who is deciding, as Mr Kaine said. Mr Kaine said it really well, actually. Who decides what is prudent?

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

MS TUCKER: How would you test this? Are you going to be asking the courts to actually look at this? There are no penalties in it. The whole thing is just quite shocking, and I sincerely hope that it does not get majority support in this place.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (5.01): Mr Temporary Deputy Speaker, the government has always supported the principles of fiscal responsibility as outlined in the amendments proposed by Mr Osborne. When this government was elected in 1995 we inherited a financial disaster. Labor's legacy was one of budget deficits and mounting debt. More and more of the territory's scarce revenue had to be used for servicing debt instead of being used to provide services to community. The people of Canberra should never forget those years of irresponsibility and fiscal neglect. They were proof of the adage that Labor cannot manage money.

Our government was elected on a platform of responsible fiscal management and eliminating the operating loss left to us by Labor. We made it clear that the only way to improve services and raise their quality was to get the territory's finances in order. We knew that without good housekeeping it was not possible for the government to do the job it was elected to do.

Mr Temporary Deputy Speaker, in line with those policies we embrace the principles outlined in this bill. While the Chief Minister, on behalf of the government, will move a few minor amendments, we fully support the intent of the bill and welcome this move to put sound financial management principles into legislation.

The 2000-01 budget shows that the ACT is expected to achieve an operating surplus of $4.2 million, meaning that the government will have met one of its key result areas—eliminating the territory's operating loss ahead of schedule. A further improvement on that is expected in the coming financial year and across the forward years, largely due to sound, experienced, and responsible management.

Mr Temporary Deputy Speaker, we have also shown our commitment to addressing our outstanding liabilities, in particular the accrued superannuation. Again, the 2000-01 budget shows our commitment to this. It has been outlined in the 2000-01 budget that

there will be an increased appropriation to the superannuation provision account totalling $120 million across the budget period. This is on top of the $300 million provided in the 1999-2000 budget, and the expected $119 million from the equalisation payment from the ActewAGL merger.

I would like to point out, however, that implementing this financial plan to balance the budget, to make up for Labor's past mistakes and to return benefits to the community as well as further to reduce the superannuation liabilities, does require the support of the Assembly. That means, Mr Temporary Deputy Speaker, that members of the Assembly will have to support the government in making tough financial decisions—financial decisions that will increase the operating surplus and that will allow us to have balanced budgets; financial decisions that will protect the territory from the substantial risk that it faces in holding substantially unfunded superannuation liabilities; and financial decisions that change the financial structure of the territory.

What we see here in the amendments proposed by Mr Osborne are very much in line with our own stated policy position. While supporting the intent of the amendments, the government has some concerns with the wording of the amendments. We will talk about those when we get to the detail stage.

The Osborne amendments to the Financial Management Act, supported by a few minor changes in the government's amendments, will again highlight the failings and the inadequacies of Labor's financial management. Now, what do we know about Labor and their financial management? Well, not a great deal because in six years they have shown us very little to give us reason to believe that they have changed their ways. We must go back to the failed "Working Capital" of Mr Berry which was, I think, so comprehensively rejected by the voters at the last election. We have seen nothing since then to indicate that they have changed.

We believe that what Mr Osborne seeks to do here with his amendments to the FMA is worthy of support. We will put forward a few amendments to make it even better. We hope that the Assembly will take this on board. We hope the Assembly will understand that one of the things the people of the ACT want is the sort of financial management that we have given over the last six years. Labor has proven themselves to be unable to deliver.

Mr Quinlan: Ha, ha. Get beyond petty cash and you would be in trouble, sonny.

MR SMYTH: I hear the embarrassed chuckle of Mr Quinlan who hasn't shown any financial leadership in the last three years. We have heard nothing from him. We know nothing of his position and we know nothing of what they will do in the lead-up to the election. At least his federal colleagues and the Leader of the Opposition in the big house are starting to put their policies out. Perhaps Mr Quinlan could follow that example as well.

MR OSBORNE (5.07), in reply: Mr Temporary Deputy Speaker, I thank members for their support, I think. This piece of legislation is just about principles. We did receive a letter from the Auditor-General, Mr Parkinson, in relation to this bill. It was a general letter of support in which he said he actually had no problem with the term "prudent", which seems to have caused some people in this place to giggle.

I do thank members. It is an old piece of legislation. As I said, it is just about basic frameworks for the government to act within. I thank the majority of members for their support, and I thank Ms Tucker, Mr Kaine and Mr Quinlan for those kind words about my work.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR QUINLAN (5.08): I move amendment No 1 circulated in my name *[see schedule 2 at page]*. As I said, I do not think this legislation is really as serious as the speeches we have heard from the other side of the house would indicate. I have to say I shudder when I hear Mr Smyth attempting to speak on finances.

Mr Humphries: Everybody else except for you gives you the same reaction, Mr Quinlan. Face facts.

MR QUINLAN: The man has given only one speech in this house. He has given it lots of times but it is the one speech. Referring to my amendment, I wish to reword it so that it makes a little bit more sense in accounting terms. I wish to see that it governs the general government sector and that we are not in fact placing a second layer over the operations of our territory owned corporations. The term "General Government Sector" is introduced to ensure that if the Treasurer is doing his budget then it is the Treasurer's bit that he can take care of. Given that we have territory owned corporations with boards of management and that they have their own charters, their own rules to work under and their own act, I think the bill would benefit from that particular change.

I also want to change some of the wording to ensure that we are not constraining ourselves. The idea at the end of the day is that we manage the territory. We balance the budget over the long term, and I presume we apply the maximum available resources to service and benefit the community. So you will find in my amendment reference to applying all available revenue to the maximum benefit of people. That has to be a target as well. If we become too focused on just the budget bottom line every year, we may well be doing someone a disservice. I repeat, just in case it's needed, that we need to balance the budget over the long term.

Mr Smyth and the government across there have re-amended the history of what Labor did in another time and another place. I think we should have a debate about where the ACT was at the beginning of self-government. What was the purpose of transitional funding? Transitional funding was supplied because it was fully anticipated that the ACT government would operate in deficit in its early years. We can look at the progressive increases in revenues and taxes. We can look at the economic cycle that the ACT has been through, largely influenced, I have to say, by the ascendancy of the Howard government in its early years. I think you will find that the territory's financial position has improved progressively since the first local government was appointed.

On the one hand we have Mr Smyth, who, I have to say, knows very little, making claims about the derelict years of Labor or whatever. At the same time, when we become concerned about public service cuts, we are reminded that Labor made public service cuts, or Labor made cuts here, or Labor made cuts there. Now, there are some contradictions in all that, and I guess that is just part of the game we play, but I do wish that we could elevate debate in this particular area a little above the level provided by Mr Brendan Smyth, who did not know what the projected surplus for this current year was when he was Acting Treasurer around Christmas time. So much for his qualifications. I would not put him in charge of the petty cash tin.

I will come back to the amendment. I think the words speak for themselves. We want optimum levels of net government assets. We do not want to be insolvent, but this is not about a company getting rich. This is about a financial operation optimising, managing prudently and applying the maximum amount of resources to the benefit of the community out there. That is the thrust of the elements of my amendment, and I do commend it to the house. I seriously commend it to the house. I am sure that Mr Osborne did some research and got his particular principles from some authoritative source. However, I am arrogant enough to think that this is something of an improvement as they apply in the ACT. I commend my amendment to the house.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (5.15): Mr Quinlan, I think, was critical in the in-principle stage of this bill about the vagueness of the provisions in Mr Osborne's bill. He suggested that they were sort of too amorphous to be of any great use and would not tie anything down very much, but it seems to me, Mr Temporary Deputy Speaker, with great respect, that what Mr Quinlan's amendment does is dramatically fuzzy up Mr Osborne's bill. It, in fact, dramatically reduces the efficacy of his words and of the principles that he is laying out here to actually give anybody guidance about where budget-making and financial management should be heading.

Let me quote subsection 5 (b) in Mr Quinlan's proposed version of the bill. It says this:

> When maximum levels of General Government Sector assets have been achieved, maintain a maximised position by assuring that, on average, over a reasonable period of time, the total operating expenses of the General Government Sector do not exceed that sector's operating revenue;

If you thought it was bad not to have specifics in the original bill, why are you so anxious to have even fewer specifics in your version of the bill, Mr Quinlan?

Mr Quinlan: Can I say I am concerned about the—

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Quinlan, you were heard in silence. I ask you to extend the same courtesy to other speakers in this house.

MR HUMPHRIES: Thank you, Mr Temporary Deputy Speaker. The first principle that was proposed by Mr Quinlan is one which seeks to maximise the net asset position in the general government sector. The first question here is why only the general government sector? Why is the public trading enterprise sector excluded from this arrangement? Is it

all right to have good financial management within the general government sector but not with the PTE sector? Mr Quinlan might be able to explain that when he stands.

The second principle states that when maximum levels of general government sector assets have been achieved we have to maintain a maximised position. Now, the notion of maximising net assets, I think, is extremely vague. We should look behind that to see the assets and liabilities that comprise the territory's net assets. The opposition has not defined the term "maximising net assets". Mr Quinlan does so in this debate. It's only sort of part-way there towards understanding what he is trying to get at.

When the credit rating agencies examine the financial health of an organisation, including the ACT government, they examine financial liabilities, which of course are most of the liabilities, and the financial assets which are held to cover those liabilities. They do not consider the net asset position.

Mr Quinlan: What?

MR HUMPHRIES: That is my advice, Mr Temporary Deputy Speaker. They do not consider the net asset position. In fact, the word "not" in my brief is in capital letters.

Mr Quinlan: Who wrote your brief?

MR HUMPHRIES: Some very experienced member of my department, Mr Quinlan. I can assure you it was not Mr Smyth, so do not worry.

MR TEMPORARY DEPUTY SPEAKER: Chief Minister, do not encourage Mr Quinlan.

MR HUMPHRIES: Yes, I will certainly try to avoid that, Mr Temporary Deputy Speaker. The second principle also is very confusing. We are told that we must first maximise the net asset position of the general government sector. Then, when maximum levels of the general government sector assets have been achieved, they are maintained. What does that mean, Mr Temporary Deputy Speaker?

Again I would like to quote from the notes that have been provided to me. I do not profess to be expert in this, but I will quote the notes that have been given to me. They say this:

> Obviously the Opposition is having trouble understanding the difference between assets and net assets. They assume that a maximum net asset position is achieved through an optimal level of assets, but they do not take into account the level of liabilities on the balance sheet. It would be financial mismanagement to limit government policy to the improvement of one side of the balance sheet only.

I also make reference to the fact that again this amendment of Mr Quinlan's deals only with the general government sector. Why is the PTE sector not included? Perhaps he can explain that. We need to bear in mind, of course, that ACTION, ACT Housing, ACTAB and bodies like that are all in the PTE sector, and they ought, therefore, to be taken into account, I would have thought, in the laying down of prudent financial principles.

The last principle of the four that Mr Quinlan lists, "apply all available revenue for the maximum benefit of the people of the Territory", is motherhood in its purest form, virtually. We might as well add that it should also be used for the generation of the maximum amount of goodness and light and purity in the community. I think general principles are fine, but principles of such generality are of no great value to the community.

I know the mega brain which is Mr Quinlan's accounting expertise finds it hard to deal with these irritatingly simple questions about his amendment, and no doubt he will dazzle us with the reasons why his view ought to be accepted over the ACT Treasury, and I wish him great luck in that. I propose to take the advice of my department, my experts, and to oppose the amendment, groans and all from Mr Quinlan, but I do urge the members of the Assembly to consider the amendments which I will propose which do amend what Mr Osborne has put forward, but on a more modest scale.

MR QUINLAN (5.22): Okay.

Mr Osborne: Just turn the other cheek.

MR QUINLAN: No, no, you cannot do this, because, look—

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Osborne, Mr Quinlan has the call.

Mr Osborne: Sorry, Harry.

MR TEMPORARY DEPUTY SPEAKER: Come to order, Mr Osborne.

MR QUINLAN: This bill says "reduce total liabilities". Mr Humphries quoted from his brief to say Mr Quinlan did not consider both sides of the balance sheet. Total liabilities, Mr Humphries, are one side of the balance sheet. The net assets position is assets minus liabilities. Now, in any business, in any enterprise, you can be big and small, but your wealth really depends on your net position. Your better-off-ness is your net position. The bill as originally drafted by whoever did it for Mr Osborne just focuses on total liability.

Now, what that means is, do less and less and less. Do not invest in anything. Do not buy an asset on credit because, if you do, you increase your liability, even if that asset would provide the territory with a very positive net—excuse me for using the word again—advantage or a net income or a net benefit. In fact, what you have said, Mr Humphries, what you have regurgitated unfortunately, is self-contradictory.

Mr Humphries: Right.

MR QUINLAN: It is important to know this. Gee, this is dangerous stuff if we have people in this place saying, "We are going to make rules about how we are going to do stuff," and you do not understand the fundamentals. I did not change the—

Mr Humphries: Talk to my advisers on this. It's shocking, isn't it. I think you should sack some people when you become Treasurer.

MR QUINLAN: For you when you come in here—apparently it is your want—everything has to be a debating contest. You cannot let the other side win anything, and that seems to be the primary motivation. I wrote this amendment so that this bill, if it got up, would not be as silly as it is. It is silly. If you focus just on liabilities you are not focusing on the whole picture, and you have got your net picture. That is the only reason why I changed that, Mr Humphries.

Mr Humphries: I am not saying that you should only focus on liabilities, Ted. No-one is saying you should focus only on liabilities.

MR QUINLAN: This does. As amended by you it still will. If you want to achieve the aim of the Osborne bill you must change that to net assets, or even change it to net financial position or something, but not liabilities, because that is only one side of the balance sheet, and you argue against focusing on one side of the balance sheet. For God's sake!

As I explained earlier, the only reason I put general government sector in there was to say, "Look, if you are going to inhibit the amount of liabilities, our government business enterprises, our TOCs, cannot go out and deficit finance growth because they, by law of the territory, have to reduce total liabilities." It's the law of the territory. You must reduce total liabilities. That's crazy. As written here it is crazy, and unless we breach this law on a regular basis it would inhibit the operation of our own business enterprises. Now, I don't know; I give up after that. I have seen some rubbish in this place and I have heard some rubbish, but, today, it's a particular day.

Question put:

> That **Mr Quinlan's** amendment No 1 be agreed to.

The Assembly voted—

Ayes 7		Noes 8	
Mr Berry	Mr Stanhope	Mrs Burke	Mr Rugendyke
Mr Corbell	Ms Tucker	Mr Hird	Mr Smyth
Mr Hargreaves		Mr Humphries	Mr Stefaniak
Mr Kaine		Mr Moore	
Mr Quinlan		Mr Osborne	

Question so resolved in the negative.

Amendment negatived.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (5.30): Mr Temporary Deputy Speaker, I ask for leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR HUMPHRIES: Thank you. I move my amendments Nos 1 and 2 *[see schedule 2 at page]*. There are a number of things in what Mr Osborne has brought forward that I think we should improve. The first principle which he has proposed in his proposed new section 11 (5) requires a reduction in total liabilities to prudent levels by requiring a balanced operating result. There are a couple of concerns about that. First of all, prudent levels of liabilities need to be considered in the context of the value and the nature of the territory's assets.

Mr Quinlan: Is that in the bill?

MR HUMPHRIES: Of course. At present 60 per cent of the territory's liabilities relate to employee entitlements, principally superannuation. Rather than simply trying somehow to reduce that liability, which of course we cannot do—we really can't reduce the liability until such time as people retire or otherwise leave the service—it makes more sense to create an asset in the form of a fund which offsets that liability. That might have been what Mr Quinlan was trying to get at before.

Mr Quinlan: Brilliant. Brilliant. You're coming along, Gary.

MR HUMPHRIES: I am sure he will agree that my amendments go some way towards achieving the objective he was after before, not perhaps with the same sort of elegance and brilliance as his own amendment. Nonetheless, I hope he will find it in his heart to support them as a way of ensuring that we do not have to reduce liabilities in order to improve our net asset position, as he described it before. The government's proposal is to replace the words "reducing the total liabilities of the territory to prudent levels" with "ensuring that the total liabilities of the territory are at prudent levels". That would allow for prudent levels of liabilities to be considered in line with the asset balances.

I might say also, Mr Temporary Deputy Speaker, that the wording of the subsection suggests that liabilities can be reduced to prudent levels only by ensuring that operating expenses do not exceed operating revenues. Of course, liabilities on the balance sheet can be managed or reduced without achieving a balanced operating result. The government proposes to replace the word "by" with "and" in that context.

MR QUINLAN (5.33): I do not understand why the Chief Minister has excluded the executive from this bill. I cannot support these amendments because I really cannot support the bill as it is. I am really only using this as a device to stand on my feet and ask for leave to table the explanatory memorandum that I had prepared for my amendment that was not circulated so that it can become a matter of record.

Leave granted.

MR QUINLAN: Thank you. I present the explanatory memorandum to my amendment to the bill.

Question put:

> That **Mr Humphries'** amendments Nos 1 and 2 be agreed to.

The Assembly voted—

Ayes 8		Noes 6	
Mrs Burke	Mr Rugendyke	Mr Berry	Ms Tucker
Mr Hird	Mr Smyth	Mr Corbell	
Mr Humphries	Mr Stefaniak	Mr Hargreaves	
Mr Moore		Mr Quinlan	
Mr Osborne		Mr Stanhope	

Question so resolved in the affirmative.

Amendments agreed to.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (5.39): I ask for leave to move amendments Nos 3, 4 and 5 circulated in my name together.

Leave granted.

MR HUMPHRIES: I move my amendments Nos 3, 4 and 5 *[see schedule 2 at page]*. These amendments simply take out the words in the bill which refer to the executive being able to depart from the principles in certain circumstances. They say instead that the proposed budget may depart from the principles. With respect, I think it is the budget itself which exhibits the principles rather than the executive. The executive might run around touting certain principles, but until it puts its budget forward you do not actually know what it is going to do with it. I think, therefore, it is appropriate to apply these rules to the budget itself, the budget document, rather than the executive.

Of course, the executive still has the responsibility, or the Treasurer still has the responsibility, of laying out the reasons why the budget needs to be adjusted over a period of time to address the issues which are laid out in the principles and return the budget process to one which complies with the principles.

Amendments agreed to.

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

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

Ayes, 9		Noes, 7	
Mrs Burke	Mr Osborne	Mr Berry	Ms Tucker
Mr Cornwell	Mr Rugendyke	Mr Corbell	Mr Wood
Mr Hird	Mr Smyth	Mr Hargreaves	
Mr Humphries	Mr Stefaniak	Mr Quinlan	
Mr Moore		Mr Stanhope	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Postponement of notice

Ordered that consideration of private Members business, notice No 3, be postponed until after consideration of notice No 4, private Members business.

Personal explanation

MR HIRD: Mr Speaker, in accordance with standing order 46, I wish to make a personal explanation.

MR SPEAKER: Proceed.

MR HIRD: Earlier today I tabled a report from the Standing Committee on Planning and Urban Services on Draft Variation No 118 relating to the Yarralumla Brickworks being placed on the Heritage Places Register. I inadvertently misled the house when I said that the kiln was from Scotland rather than Staffordshire, England. It is a rare kiln and it was built in England. I apologise to the house.

Sitting suspended from 5.50 to 7.30 pm

Red Hill Housing Precinct—direction to Planning Authority

MR CORBELL (7.30): Mr Speaker, I move:

> That pursuant to subsection 37(2) of the Land (Planning and Environment) Act 1991, the Legislative Assembly recommend to the Executive that the ACT Planning Authority be directed to implement policies which provide for a development intensity of not more than one dwelling on any block in the area known as the Red Hill Housing Precinct as described in Variation 114 Heritage Places Register—Red Hill Housing Precinct.

Mr Speaker, I am moving this motion this evening with a sense of both concern and frustration, and I am sure that there are a number of other members here this evening who share that frustration. On 28 June last year, I moved a motion in this place requesting that the Minister for Urban Services direct the ACT planning authority—that is, the Planning and Land Management Group—to review the Territory Plan insofar as it relates to the heritage precinct area of Old Red Hill to provide for a development intensity of no more than one dwelling on any block.

I was pleased, therefore, to see that the minister and the executive were prepared to issue such a direction following the recommendation by the Assembly. What I was not pleased about, Mr Speaker, was the outcome following that direction. Whilst the wording of the motion that this Assembly passed last year was very specific, in that it requested an outcome of no more than one dwelling per block, the review presented to the minister

and subsequently endorsed by him recommended that there was no need to limit dwellings in the Red Hill precinct to only one per block.

Mr Speaker, we really should not be debating this motion this evening. The will of the Assembly was made quite clear less than 12 months ago. At the time I made some comments about the process that was being conducted and we were considering when I presented my original motion. I want to quote from the *Hansard* of my speech at that time. I said:

> I do not want the minister to go away from this place thinking he can undertake a review and come back to this place and say there is no need to change it.

that is, to change variation 114—

> I believe the majority of members in this place feel strongly that dual occupancy development cannot be allowed in the Old Red Hill precinct if its heritage significance is to be properly protected. I would like the minister, if and when he undertakes this review—assuming that the Assembly supports my motion—to know that that is the very clear wish of this place. Our wish is that he not just conduct a review but conduct a review recognising that this Assembly believes that there should be no dual occupancy development in the Old Red Hill precinct. It is incumbent upon him to treat that very seriously.

A number of other members, including Mr Kaine and Ms Tucker, expressed similar sentiments. Why, back then, did we move the motion in the first place? The motion was moved and supported by a majority of members of this place because we believed that allowing dual occupancy development in the Old Red Hill precinct would destroy the heritage significance of that place. Mr Speaker, that was not just a whim; it was not just a view of a number of politicians in this place. It was backed up by advice and evidence presented by a number of pre-eminent individuals in the Planning and Urban Services Committee inquiry into the listing of the Old Red Hill precinct on the Heritage Places Register.

The Old Red Hill Preservation Group, the Manuka Local Area Planning Advisory Committee and the National Trust all argued in favour of restricting development in the heritage area of Old Red Hill to only one dwelling. But the most important evidence came from Professor James Weirick, a professor of landscape architecture at the University of New South Wales. Amongst other positions, he was recently on the panel put together by the National Capital Authority in the competition for a design for the new lake foreshore area between the National Library and the High Court. He is recognised as one of the pre-eminent experts on the work of Walter Burley Griffin, particularly as it relates to the development of Canberra.

His evidence was such that this Assembly recognised the need not to allow dual occupancy development in the Old Red Hill precinct. In his evidence he stated that the Red Hill area warranted heritage protection because it was a 20th century garden suburb of immense interest and importance. He suggested that to find anything comparable to Red Hill would require viewing examples in the United States dating from the 19th century. He highlighted the fact that the Red Hill precinct is, in effect, divided into three areas. He went on to say that to allow dual occupancy development would result in a significance change to the heritage values of the place. In particular, it would result in

the conversion of what are effectively semi-rural blocks into areas of conventional prestige suburb.

For that reason, the evidence presented by both Professor Weirick and Professor Ken Taylor highlighted the fact that dual occupancy development would have an impact on the heritage values of the place, a place which has direct associations with the work of Walter Burley Griffin and Sir John Sulman, the first chairman of the Federal Capital Advisory Committee.

All those facts are on the table. They were presented to the planning committee's inquiry and they led to the motion supported by a majority of members in this place on 28 June last year not to allow dual occupancy development in this area because of its heritage significance.

Mr Speaker, what we have had since is a very concerning development. It seems to me that the word "review" has been taken to suggest that there are options as to whether dual occupancy development should continue to be allowed in the Old Red Hill precinct. The review conducted by PALM and supported by the government indicates that there is no need for a restriction on the development intensity insofar as it relates to the number of dwellings in Old Red Hill. But the wording of the original motion was quite explicit. It said:

> That pursuant to subsection 37(2) of the Land (Planning and Environment) Act 1991, the Legislative Assembly recommend to the Executive that the ACT Planning Authority be directed to review the Territory Plan as it relates to Variation 114—Heritage Places Register—Red Hill Housing Precinct—

and these are the important words, Mr Speaker—

> to provide for a development intensity of no more than one dwelling on any block in the Red Hill Housing Precinct.

The wishes of this Assembly were clear. Despite that, we are in a situation now where the expressed wishes of this place as directed by the minister, by the executive, have been ignored.

My motion today makes it even plainer. We should not have to make it even plainer, but we will. My motion today recommends to the executive "that the ACT Planning Authority be directed to implement policies which provide for a development intensity of not more than one dwelling on any block in the area known as the Red Hill housing precinct as described in Variation 114 Heritage Places Register—Red Hill Housing Precinct"; implement policies to provide for no more than one dwelling on any block. That is what we meant back in June of last year. That was quite clear. For some reason it has not happened, so we have to come back and make it clearer still.

I would imagine that the minister will climb to his feet shortly and say, "Well, well, well, what do we have here from Simon Corbell? We have a situation where Simon Corbell wants to have an independent planning authority, but he is not happy when it makes decisions which are contrary to the wishes of the Assembly." Mr Smyth needs to understand that the view I take and other Labor members take in this place is that we do need an independent planning authority; but, if the elected representatives of the people

of Canberra want a particular objective pursued, there should be a mechanism for directing an independent planning authority to do that.

That is what we attempted to do through the existing legislative arrangements last June and that is what I am attempting to do tonight. As elected representatives, we have a role to play too and it should be a clear and transparent one. That is the purpose of this motion.

I would ask members who voted for my motion last June to continue with their support, because nothing has changed. The heritage values of the place are still intact and significant. They still require protection; nothing has changed in that regard. But what we do have in the Old Red Hill precinct is a situation where two blocks are now the subject of development applications for dual occupancy proposals; so they have started, Mr Speaker. The subdivision of what Professor James Weirick describes as a rare 20th century example of a garden city suburb is being threatened and its character is being undermined by dual occupancy proposals.

We need to send the message again, clearly and eloquently, that we will not permit the heritage values of one of Canberra's oldest suburbs, a suburb with clear heritage significance, a suburb with clear links to the work of Walter Burley Griffin and Sir John Sulman, to be compromised. I would urge members this evening to support this important motion.

MR KAINE (7.44): Mr Speaker, I must say that I totally support the proposition being put by Mr Corbell on this matter. I do not think that Mr Corbell should have to go through the justifications for retaining the heritage area there in its present form. I would have thought that that had been well and truly established a long time ago and that we would no longer be debating that matter.

Regardless of whether it is necessary to restate the reasons, the fact is that this Assembly passed a motion requiring the government to take certain action. My initial question, when I found out that that direction had been set aside or ignored, was to ask the minister: which part of "no dual occupancy" did you not understand? Having looked at the documentation associated with this matter, I think that in all fairness the minister did understand what the Assembly motion meant because he and Mr Moore, acting together as members of the executive, faithfully relayed that motion to the appropriate public servant responsible.

In fact, the wording is identical. They did not seek to vary it and they did not seek to play games; they merely relayed to the administration the resolution of this place.

I am afraid, Mr Speaker, that the question I must ask is not of the minister but of the responsible bureaucrat: which part of "no dual occupancy" did you not understand? It seems that Mr Smyth and Mr Moore passed the resolution on and, in fact, gave an executive direction to the effect, quite explicitly, that the administration "review the Territory Plan as it relates to Variation 114—Heritage Places Register—Red Hill Precinct to provide for a development intensity of no more than one dwelling on any block in the Red Hill housing precinct".

You cannot get more clarity than that, I believe, and that, in fairness to the minister, is what he and Mr Moore directed the executive director of the Planning and Land Management Group to do. There was no ambiguity about it and there was no ambiguity about the motion passed in this place. But what happened after that? What happened after that was that somebody saw fit to hire a consultant to write a paper on the subject. I have never heard of this consultant; I presume it was done by a consultant. The paper has a name on the front of it. The purpose of that review appeared to be to achieve anything but what this Assembly required and anything but what the minister directed. The whole tenor of the report is to justify the retention of the policy of two residential units on each residential block.

I do not know who authorised that. I do not know who commissioned the report. I do not know what instructions the person writing this report was given. Maybe there was a misunderstanding of what it was that was to be done. But I must ask why this report was done in the first place, because it set about to set aside the resolution of this place and to set aside the direction that the minister gave. Mr Speaker, I find that totally unacceptable.

I have to say that for some reason the minister did not insist that his directive be put into place. That report was tabled in this place by the minister, so he must have known that somebody in his administration had taken a course directly opposed to what this Assembly resolved and directly opposed to what the minister himself directed; yet he tabled it in this place with no comment and, presumably, tacitly endorsed the findings of the report. In fact, I think it was more than tacitly endorsed; I think he explicitly endorsed the findings. I find it inexplicable that the minister, having conveyed a specific direction to his administration, should then accept a report that is directly contrary to that direction and without comment—in fact, by endorsing it—table it in this place.

That is where it seems to have gone off the rails. In my view, the public servant involved should have been given a solid rap across the knuckles and sent away to redo it, to come back with a paper that explained how the resolution of the Assembly and the direction of the minister were going to be put into place. I find that a little inexplicable; but whatever transpired and however the minister was persuaded that this report had some value in the context of the direction that the Assembly had given, it now seems to have become policy, directly contrary to what the resolution of this place required.

I think that it will take very little to rectify the situation. It requires the minister to do nothing more than to go back to his office and write to the public official who is specifically named in the directive, saying, "You got it wrong; rectify it." Nothing further should need to be done by the minister or by the members of this place. But I have to say that it would appear that there is need for a further resolution of this place to ensure that our earlier resolution is put into place. I find it inexplicable and the outcome is, from my viewpoint, totally unacceptable. I repeat that it would not require much to fix it. It is entirely within the realm of the minister to summon the public servant involved and say to him, "You have got it wrong. Go away and implement, first of all, the resolution of the Assembly and, secondly, the directive that Mr Moore and I gave you." It is as simple as that—we do not need to argue about it—and we should not have to debate this matter further in this place.

To ensure that that occurs, I support what Mr Corbell is doing because I believe that when this place makes a resolution and when the minister accepts that resolution and conveys it to the public servants involved, there is no room for that resolution and that directive to be totally ignored, as has happened in this case.

MS TUCKER (7.52): I agree with Mr Kaine and Mr Corbell on this matter. The issue of dual occupancies in the Red Hill heritage precinct has gone beyond a planning matter to one about Assembly procedures. In June of last year, Mr Corbell put up a motion recommending that the executive direct the ACT planning authority to review the Territory Plan—and this is the key point—to provide for a development intensity of no more than one dwelling on any block within the Red Hill housing precinct.

I understand that after the vote, Brendan Smyth wrote to the executive director of PALM directing him to review the plan as per the motion. However, PALM did not follow the intent of the motion. It commissioned a consultant to determine whether a further variation to the Territory Plan would be required and whether development should be restricted to one dwelling per block. In effect, PALM was questioning the motion rather than implementing it.

The consultancy study concluded that development did not need to be restricted to one dwelling per block and that dual occupancies were acceptable, provided various new setback requirements were met. Surprisingly, as other members have said, Mr Smyth accepted PALM's review and tabled the consultant's report in the Assembly last November, despite the fact that it was not in accordance with the June motion.

Either Mr Smyth did not understand the original motion or he was supportive of PALM's undermining of the motion. The style of wording of the motion in referring to a review of the plan was obviously derived from section 37 of the land act. Perhaps Mr Corbell could have used more precise wording. However, the intent of the motion was absolutely clear, that is, that the Territory Plan should be changed to allow for only one dwelling.

The minister and PALM have misinterpreted the word "review" in this context. I am not sure that this was done on purpose but I suspect that it was, given their previous commitment to dual occupancy in the Red Hill heritage precinct and their opposition to Mr Corbell's motion.

Mr Corbell has now put up a motion clearly directing the government to do what it should have done in the first place, which is to provide for a development density of no more than one dwelling per block in the Red Hill precinct. In line with my support of Mr Corbell's earlier motion, I will be supporting this one.

I have also examined the consultant's review of the Red Hill housing precinct and do not find its arguments to be compelling. The heritage significance of this area relate to the high ratio of garden areas to buildings. The area contains very large blocks and very low building densities. The review concludes that it is the relationship of the landscape to the built form which gives the area its heritage significance and not whether there is one house per block. However, the review does not acknowledge that restricting development to one house per block is a valid and effective way of preserving the area's significance. It assumes that there will be further development in the area and that it is possible to set

limits on that, but it does not adequately address the fact that there is an inverse relationship between the extent of development and the quality of the landscape.

I do not believe that the area's heritage significance can be preserved by allowing dual occupancies. It is true that the area still would be relatively low density even if there were dual occupancies, but that is not the point. Once you introduce dual occupancies you have more buildings, more fences, more driveways, more hard surfaces, fewer trees and less vegetation. The original qualities of the area, the qualities that make it significant, would be changed permanently and detrimentally. It would be a pale shadow of the original garden suburb that was intended by Canberra's early planner. Extensions to the existing houses can have similar effects, but they are much more concentrated around the existing houses and less intrusive on the overall landscape setting.

As I mentioned in the earlier debate on this issue, the Greens would not support having a whole city of such large blocks and we do support urban consolidation in specific locations that contribute to the efficiency of this city's transport systems and urban infrastructure. However, this area is small relative to the rest of the city and maintaining these large blocks would not have a major impact on the overall planning of the city. The Greens also value the maintenance of our built and natural heritage and in this case we think the historic garden setting of this area is worthy of protection.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (7.56): Mr Speaker, when the Assembly asks that a review be carried out, a review should be carried out. I met recently with representatives of the Old Red Hill precinct and they brought with them a dictionary, and the words of their dictionary definition that spring to mind are that you review something with the possibility of an outcome. I think we have to put everything in context.

We are hearing today that the definition of Simon Corbell and the Labor Party of a review is that you get the outcome that you desire. That is odd because some years ago we had a review or a consultancy on rural residential development and I was accused of tampering with the outcome there, but here we have Mr Corbell saying what the outcome of the review should be. You have to put that into context. His motion reads:

> … recommend to the Executive that the ACT Planning Authority be directed to review the Territory Plan as it relates to Variation 114—Heritage Places Register—Red Hill Housing Precinct to provide for a development intensity of no more than one dwelling on any block in the Red Hill Housing Precinct.

There are three elements to what was put there, not one. Three elements were put there: review the Territory Plan as it relates to variation 114 with a possible outcome. If you have a review, the review may have different outcomes to what was intended. If we go back to the original variation 114, the important points of it were that the review looked at how to protect the heritage of Old Red Hill and it looked at controls on subdivision, tree preservation, the hard surfacing and the plot ratio. The original review did not find that one house per block is intrinsic to the heritage character of the precinct.

The options open to members of the Assembly on that day were to move for the disallowance of the variation as presented, but they chose not to. They chose not to because they said that they agreed with the majority of the work, that the reviewers got it right, but they disagreed on the issue of dual occupancy. We had got it 95 per cent right, but there was this one little bit that was not agreed to.

Then we got down to experts at 30 paces: "My experts are better than your experts." Mr Corbell uses Professor Weirick. In the notes here I say that the view that PALM put forward through variation 114 were supported by Professor Ken Taylor, professor of landscape architecture at the University of Canberra, and Mr Eric Martin, a heritage architect and former chair of the ACT Heritage Council. Variation 114 went to the ACT Heritage Council, which agreed with it as well, and it was tabled.

In the main it was accepted by this place as being a vast step forward on the previous unclear protections that had been put in place in about 1994; it was a big step forward. We get then to the point of dispute over whether there should be dual occupancies in Old Red Hill and how we should go about that. It was moved that the Assembly recommend to the executive that the planning authority be directed to review—we seem to gloss over the word "review"—the Territory Plan as it relates to variation 114.

Mr Corbell: To provide for.

MR SMYTH: Yes, it does go on to say, "To provide for." So you review with that view in mind; you do not review to make that happen. It might happen, it might not happen or it might be a mix of both, but we have differing opinions and there is a dichotomy between the public and the professional view of what is appropriate in this circumstance.

The startling thing is that Mr Kaine has said, "Which part didn't you understand?" I would like to know what you understand by the word "review". You say that we should have a review and you vote for a review, but you do not want a review because you have already got in your mind a fixed outcome. It is not a review when you have already got an outcome.

Mr Kaine: You are dissembling, Minister.

MR SMYTH: Mr Kaine interjects, but he knows full well what the word "review" means. He says that the minister did not insist on anything and the minister tabled the result of the work done by the consultant. I looked at it. The reason PALM suggested that it go out to a consultant was that the people who were most likely to conduct the review inside PALM were the ones who had put variation 114 together, so they had more or less established a position that said that dual occupancy was okay.

If you are going to have a fair dinkum review, if you are going to have an honest an open review and if they have already come to a position—and PALM, through developing variation 114, clearly had come to that position—then you cannot be asking them honestly to review something that they have already decided on. If you actually want an honest review, an open review, a review with the possibility of different outcomes, then you cannot get the person who has already put a position on the table to do the review. PALM got an expert to go out and do the review.

I saw what was done. Clearly, we will disagree on the value of that work. But what is it that we are attempting to protect through variation 114 in the Old Red Hill precinct? We are attempting to protect, in the main, the streetscape, the landscape values, the bits that we actually see as we drive along that define the precinct as Old Red Hill.

The reviewer decided that although the controls that had been put in place were strong, they were not strong enough. The reviewer recommended the introduction of additional side and rear setback requirements and front setbacks specific to each street to protect that landscape value, the bit that we all enjoy, the bit that the public can go to see and enjoy. The owners can enjoy the entire block. I cannot; I do not live there. I might get invited to a house there, but I cannot enjoy the value of the entire block. The heritage value as it relates to the city is the part that we can all enjoy. That is what the review should have concentrated on and that is the part of the review that I think is most important.

Mr Speaker, it is important that we understand what it was that we were trying to achieve and how best to go about achieving that. This government has worked very hard on heritage values in this city. Past mistakes have led to the Heritage Council spending an awful amount of its time and effort in the AAT because citations in the register are ineffective, airy-fairy and do not protect the heritage values. This one has taken almost seven years of hard work by a lot of people to try to come to a point where we can agree on what it is that is worth saving and how we would go about saving it.

The government is committed to heritage protection. The government have put more money into the heritage unit, we have given them extra staff, we have given them clear direction and we have asked them to get on with the job, but the advice of the Heritage Council is that they are hindered by things done before that have left them in a position where they end up in the AAT defending wishy-washy words that are the subject of differing interpretations by lawyers. We are seeking to fix that by having a review of all the citations to make sure that we get them right for our precincts, which are incredibly valuable, the all-up heritage of this city.

But the issue here for tonight is about a review as it relates to variation 114 with an outcome that is to provide for no more than one dwelling on any block. If there is to be an honest review, then that outcome may be one of several things. I appreciate that some people wanted an outcome that said one dwelling to a block. That is clearly an outcome. Another outcome is that variation 114 as presented to the Assembly actually got it right.

If Mr Kaine, Ms Tucker and the Labor party actually want to put on the record that their definition of a review is "do as I tell you, not do what I ask you", that is fine; they will be known for what they are. As minister, I was asked by the Assembly to conduct a review and, rightly, we conducted a review. The reviewing officer determined that the outcome in the context of variation 114 was that additional strengthening of the guidelines would achieve that aim.

There are some residents in the Old Red Hill precinct that do not want any further development in their area. There are some residents in the Old Red Hill area who would like to have it. We have to balance the needs of those who live there, who have invested in there, and who may want to stay in their suburb when they retire against protecting the heritage values of the Old Red Hill precinct. Mr Speaker, that involves a bit of a juggling

act. As I have said, we have this dichotomy between public and professional views on what best to do and how best to achieve it, but the government did what it was asked. It was asked to review—

Mr Kaine: No, it did not.

MR SMYTH: The government did what it was asked. It was asked to review the Territory Plan. *(Extension of time granted)*. The *Oxford Dictionary* definition of "review" is to reconsider or to revise. It has been reconsidered. It has been carried out in accordance with what the Assembly wanted.

I think that it would be setting a very dangerous precedent for the Assembly to be asking for a review with a predetermined outcome. That would not be a review. If that is the way that the Labor Party would operate in government, it would be a very interesting style of government, Mr Speaker. If what we would get from Labor would be false reviews, phoney reviews and predetermined outcomes it would make a mockery of the situation. Ms Tucker is the one who always talks to us about community consultation and an honest and open process. What we are having here is the notion that a review should have a predetermined outcome. You ought to be ashamed of yourself for even attempting to put that forward.

Mr Speaker, the government has done what was requested of it. It had a review of the plan in the context of variation 114 and how best to protect the heritage value of Old Red Hill. We have done that. If the opposition had wanted something different, perhaps they should have been more open at the start. If they did not want a review but a predetermined outcome, they should have put it on the record that this place sees itself above experts.

We are often called on to make decisions. That is what we are employed for, that is what we are elected for and that is what we put ourselves forward for. If what we get down to is "my expert is better than your expert", then I guess we will never achieve anything in this place. I think that what we were able to achieve through variation 114 was a huge step forward on what was there previously and it will secure the Old Red Hill precinct into the future.

The government is currently reviewing all the citations on the other heritage precincts to take the Heritage Council out of the AAT, to make them clear so that it is beyond dispute how we protect those heritage values, those things that we cherish in the various examples of precincts around our city that really are landmarks on the path of the development of the nation's capital, and they should be protected. We differ on whether dual occupancy is appropriate in Old Red Hill. That is a matter of opinion, and that is what it will get down to here this evening. It will get down to a matter of opinion. But the executive did as it was asked and PALM did as it was asked by conducting a review of the plan.

I believe that the outcomes of the review are acceptable and strengthen what was achieved and was acknowledged in this place as having been achieved in variation 114. If the Assembly so decides now to recommend to the executive that PALM be directed to implement that, I will see what happens when the vote gets up. I hope that it will not come to that, because we have done what we were asked to do and the consultants, the

people with the expertise in this matter, have come up with a way to strength even further variation 114 to ensure that not just Canberrans but all Australians get to enjoy long term the heritage values of Old Red Hill.

MR HARGREAVES (8:10): Mr Speaker, this motion continues the endeavours of Mr Corbell to retain the heritage areas of the Red Hill precinct against quite considerable odds. It is clear to me from looking back at the motion that the minister likes to split the motion into the review component and providing for more than one dwelling. There is a third aspect, that is, interpretation of the wish of the Assembly. It is the minister's job to interpret that wish and put it into practice.

The minister used the term "experts at 30 paces". Firstly, it is a bit frivolous to say that and, secondly, it is not really so that that is the case. Mr Speaker, it is clearly a contest between the will of the Assembly and the strength of the minister in terms of who is running the show, he or the department, and in this instance the will of the Assembly should prevail. In my view the previous motion was explicit.

The minister emphasised the word "review" and glossed over the words "to provide for". The minister used a definition out of a dictionary of his own choosing to talk about a review being something with a possibility of an outcome, whose object is the possibility of an outcome. I refer the minister to the *New Oxford Dictionary* definition, which says that it is a formal assessment or examination of something with a possibility—I emphasis the next bit for the minister's edification, because I know that he is not tertiary qualified—or intention of instituting change.

If you replace the word "review" in the motion with that definition, you have "with the intention of instituting change to provide for no more than one dwelling on any block". That is crystal clear to me. I will repeat it: to allow the formal assessment or examination of something with the intention of providing for no more than one dwelling. It was clearly the wish of the Assembly that dual occupancy not be allowed in that precinct. The minister has a duty as the minister for heritage to uphold the Assembly's wish and to protect the areas so described.

Mr Speaker, there has to be a balance between urban redevelopment or internal expansion within a suburb and the protection of those heritage areas. It is the minister's responsibility and duty to juggle them. It is also the Assembly's duty to provide guidance to the minister. If he does not accept the guidance of the Assembly, it is up to the Assembly to direct him.

Mr Speaker, I may be corrected, but I thought I heard the minister say that he would be happy to go along with it if the Assembly recommended it: in a sense, if we replaced the word "direct" in the motion with "recommend".

Ordinarily, I would say that that would be fair enough, but not this time because it was clearly the Assembly's wish that something occur last time but the minister did not comply with that wish, so we are now forced at this time as the Assembly to direct him to do that.

Mr Speaker, I believe that the minister ought to agree to the motion and not let his ego get in the way. He ought to assert his authority and use his power to protect the Red Hill precinct. It is well known that this minister has a reputation without par for using call-in powers. He uses call-in powers willy-nilly, at the beck and call of heaven knows whom. In this sense, he ought to use his protective powers now that the encroachment has started in the Red Hill precinct. I know that that would be quite the opposite of what he normally does. Normally, he uses his call-in powers so that some vested interests can make a quid out of it, but in this instance his ministry of heritage ought to take precedent over his ministry of planning.

Mr Speaker, in opposing the motion by Mr Corbell, the minister is derelict in his duty as minister for heritage and negligent in endorsing what are, in fact, mutually exclusive concepts. We said, "Don't do it." He said, "We will do a review. Oh, the review says okay," so he is now going with that one. Of course, he could be acting with some sort of contempt for the wishes of the Assembly as well. I suspect that his use of semantics around the word "review" is merely an attempt to weasel out of complying with the Assembly's wish. I would like to see him rise above that.

What we are all about here tonight, Mr Speaker, is not something which is a populist activity. It is not going to win any votes for anybody. Mr Corbell is genuinely attempting to protect the heritage of the Red Hill precinct and he has received support from at least half the crossbench. Mr Smyth says that he is interested in protecting the streetscape, that that is what heritage is all about. I think that is a limited view. He is putting his own interpretation on what he should protect, not what it is generally accepted that he should protect.

He says that all you can see when you drive around the suburbs is the streets, the trees and the fronts of houses. Clearly, the minister has not looked off Red Hill and seen the vista that you get there. It is that sort of vista that we are trying to protect here. We are also trying to protect the intrinsic history of the buildings in the Red Hill precinct. Adding 21st century dual occupancies on to the back of what are early 20th century constructions ought not to be provided for.

Mr Speaker, I am not urging the minister to do a backflip or to back down, but merely to acknowledge that what we are all about here is trying to protect an area of Canberra which is unique. We have seen the whole face of Griffith/Narrabundah change because of the introduction of new types of dwellings there. We have all laughed at the concept in Canberra that if something is more than 30 years old, we should pull it down and put up something new. I think we all reject that.

I would urge the minister to come on board with the sentiments expressed in this motion by Mr Corbell and, once and for all, just instruct the department to do as the original motion asked. If he agreed with that approach, there would be no need for this Assembly to insist on him complying with a previous resolution of this place. Mr Speaker, with that I urge the Assembly not to accept this as a precedent. It is not a precedent. It is not a case of the Labor Party setting the rules for later. It is a case of us trying to protect the Red Hill precinct. I urge him to come on board.

MR SPEAKER: Is leave granted for Mr Kaine to speak again? There being no objection, you may proceed, Mr Kaine.

MR KAINE (8:19): I had intended to seek leave to do so, Mr Speaker, but thank you for anticipating that. In my earlier remarks I credited the minister with fully understanding the intent of this place when it passed this resolution on 28 June last year and of faithfully conveying that resolution to the responsible bureaucrat. It seems I was wrong, however. By his own words, he has condemned himself. He has deliberately, on the face of it, set about to thwart the resolution of the majority of the members of this place.

It was not a case of mistake or error; there was no mistake or error in the transmitting of the message between him and the bureaucracy. It is obvious that his intention was not to implement the clear wishes of this place. There could be no doubt about what was the requirement of this place. There was no doubt whatsoever, despite his attempt now with weasel words to weasel out of it. The clear intention of the resolution was that there should be no more than one residential unit on one residential block in the heritage area.

Does the minister mean to stand up today and say that that was not the intention of the resolution that passed through this place? There is no doubt about what it meant; yet the minister has deliberately gone about thwarting that resolution and making sure not only that that did not happen, but also that the very reverse of it happened. Mr Speaker, this has to be the ultimate in executive arrogance: "I will not do what the legislature has directed me to do. I will do just the opposite."

I have to apologise to the bureaucrats involved because my original belief was that the minister had got it right and the bureaucrats had got it wrong. That is clearly not the case, so I apologise here and now, Mr Speaker, for my earlier remarks that might have indicated some lack of performance on the part of the bureaucrats involved. The responsibility clearly lies with the minister, who did not intend to do what he was directed to do by a majority of the members of this place.

The intent of the minister is reflected in the introduction to the Red Hill housing precinct review report, because it begins with the directive and then in the third paragraph it says:

> This review deals with the issue of whether development in the Red Hill heritage precinct should be restricted to one dwelling per block.

So far, so good, but it goes on to say:

> The hypothesis to be tested is whether the heritage value of the area is fundamentally related to there being one house per block and would, by inference, be adversely affected if there were more than one dwelling per block permitted.

That hypothesis does not derive from the directive to the minister that this house enacted. There is no suggestion of any hypothesis to be tested as to whether the resolution was justified. I can only conclude that that hypothesis was set in response to the requirements of the minister. So the minister has set about to deliberately thwart the recommendation that came from this place.

Mr Speaker, the minister can use weasel words to debate and argue about what the word "review" means, but I understood clearly what it meant in the context of Mr Corbell's earlier resolution. In order to vary the Territory Plan, you have to review how it needs to be varied to effect the outcome that you require. It was not a review to determine

whether the directive of this place was valid. The minister now comes to this place and purports to argue as to the meaning of "review". He would have done better to have looked at the resolution, which was quite specific. The resolution said that there should be one residential unit per residential block, and the emphasis was not on the word "review".

The minister can play whatever funny games he wants, but I am astonished that he chooses to take this course of action and come to this place and try to defend his action on the semantic interpretation of what the word "review" means. It is a pathetic ploy that goes nowhere. It does not persuade me. All it persuades me is that the minister decided in his arrogance that he was not going to implement the resolution of this place.

Mr Speaker, I do not accept that. I can only warn Mr Corbell that, if he proceeds with the motion that is now before us, the minister will avoid responsibility again, because for Mr Corbell to be quite explicit in what he requires the minister to do, he would have to remove the words "recommend to the executive that the ACT Planning Authority be directed to" and insert the words "requires the executive to direct the ACT Planning Authority to do", otherwise the minister will say, "It is only a recommendation. We are not obligated to accept the recommendations of the Assembly."

It was not a recommendation in the first place; it was a directive, a requirement. It remains so today, but I can only warn Mr Corbell that the minister will try to weasel word his way out of implementing this directive, just as he is trying to weasel word his way out of implementing the last one. I find it totally unacceptable that the minister would take this course of action. It was quite clear what the Assembly required. It is quite clear now. It will be quite clear in five years time. Equally, it will be clear that the minister decided that he was not going to do it. That is why we are debating the subject again tonight.

Mr Speaker, frankly, I am appalled, and I think that the minister should go away and think about where he stands, because this is the material for a motion of censure or a motion of want of confidence. If one of those were to be brought on against the minister on the next sitting day, he would express astonishment that we would find it necessary to take that course of action. But it is the basis for just such a motion that the minister chooses deliberately and arrogantly to flout what the Assembly requires him to do. He ought to expect that if he persists in this view he will at some time in the near future be confronted with such a motion, so I would advise him to think carefully before he again moves contrary to the intention of this place and declines to do what the majority of this place directs him to do. Listen carefully, Mr Minister, I warn you.

MR MOORE (Minister for Health, Housing and Community Services) (8.27): Mr Speaker, this debate has been very interesting for me. I think that I should remind Mr Kaine that, while he was Chief Minister, he had a majority government and therefore was not under the constant threat of a no confidence motion that he has brought up. It has been the practice of all the minority governments in this place to say that the only way that they will be bound to do something is by way of legislation.

If the Assembly recommends that we do something, of course we will take that seriously. Where you require something to be done, we take it even more seriously. But in neither case does it mean that we will do it, because there is a separation between the power of

the legislature and the power of the executive. With that power goes a responsibility that we take seriously and will continue to take.

Something that is quite interesting to me about the Old Red Hill development and the proposal for dual occupancy is that if there are any places in Canberra that would lend themselves to dual occupancy, they are the places with the biggest blocks. Of course, Red Hill fits into that category, as do Ainslie, Braddon, Reid and Kingston, which we have seen largely redeveloped.

Mr Speaker, that is where I would say that perhaps we should and that is where there is a tendency to focus on dual occupancies. The reason that I would still oppose any dual occupancy at the moment is that we are still allowing them to happen in a way that looks just like carpet bombing. We do not know what happens to a suburb where they land. I think that it actually destroys the amenity of parts of areas within our community. That is why I am opposed to dual occupancy.

If asked whether I opposed dual occupancy on a particular block that looked really good and was really effective, I would say no if the dual occupancy works nicely, is effective, maintains trees and does not undermine the nature and the residential amenity of that particular area, but put another four in on either side of it and another one round the back and the whole character of the place changes. One of the things that we are trying to do is understand what we need to do with the system of dual occupancies to allow the odd ones to occur that do not undermine the amenity of the rest of the suburb and to give the residents the confidence that it is a one-off or there is going to be a limited number of them, that they are not going to change the whole character of the suburb.

There is tension, if you like, between those who are looking for dual occupancy and those who are not. The tension is not just tension with those who want to make some money out of a dual occupancy. There is that side of it and that is fair enough. There is also the side of it in the older suburbs—for example, Red Hill—where people have grown up there and their houses have got to the stage where they cannot handle them, but they want to be able to live in the same suburb. Dual occupancy facilitates that or facilitates families living closer to one another and makes housing in that suburb more affordable for people. There is a series of reasons why dual occupancies do fulfil a purpose. Like most decisions that come before us, there is no black and white situation of "Yes, they are good" or "No, they are bad". Mr Corbell would probably agree with me that there seems to be a place for dual occupancies.

What is missing is an understanding of how we contain them, of how we put them into a planning system in a planned way. Our planners have been very good, although there have been a few bungles, at planning greenfields development, getting it right and understanding what is needed. We are still having trouble with planning our residential renewal, our redevelopments.

I look at Kingston in its current condition and think, "Obviously, lots of people like living there. There is an atmosphere there that suits some people; so be it." It is certainly not a place where I would choose to live, but I know that a lot of the people who live in Kingston would not choose to live where I do. Pain went on with that renewal at the time. In fact, I recall being told that the suicide of a couple of people was associated with

the pressure of that redevelopment in Kingston. Of course, that would be entirely inappropriate.

What is it that we are doing about urban renewal to make sure that we get it right? I think the most important part is the confidence people have in knowing what is happening and what is not happening, that that is where they can go having made their own investments. This is not a problem just for Canberra; it is a problem in Western cities right across the world to work out how to go about renewal and meeting contra needs of people.

Until such time as we get sensible planning of urban renewal, I will continue to oppose dual occupancies wherever they occur; so I have no difficulty with supporting the motion that Mr Corbell has put up today. But it is worth pointing out that there are some areas where we are doing it very well. I think the planning authorities have handled particularly well the redevelopment around the shopping centres in our suburbs. I think that is going extraordinarily well.

I think that the redevelopment of residential areas within Civic is putting a whole new vibrancy into the centre of the city. I have to say that I think that it is time for us to look at whether we can do exactly the same thing with regard to the Belconnen Town Centre and the area around Woden/Phillip, making sure that we set out on a master plan where we want it and encourage that residential redevelopment to build up.

I have to say that it strikes me that the Tuggeranong Town Centre would lend itself to being enhanced by an injection of residential redevelopment within the area. I think that there should be more debate on that because I think there are arguments both ways about that, as there are about everything. But it seems to me, certainly with regard to Woden and Phillip, that there is room for residential development, probably high-rise residential development, in those areas to bring vibrancy back into them and to make sure we have got more opportunity for affordable residences very close to where people work.

The planning that we focused on in Canberra for many years tried to put the work near where people were living. I think we are now at the stage where there are opportunities for people to live nearer to where they work and I think we should be pushing that further. We have done it very successfully so far in Civic. There is a long way still to go and there are still plenty of opportunities. We had a fairly clear idea about what it was that we were trying to achieve there. I think that we have got a clear idea about what we are trying to achieve with urban renewal in terms of the savings and the better use of the infrastructure that we have here, but how to go about implementing that urban renewal has not been handled well.

It is a difficult job. It is a great challenge. I am not saying that it is easy. I think that it is a real challenge for us. Until such time as we have managed it, I will continue to support these sorts of motions by Mr Corbell to prevent dual occupancy development.

That having been said, I still recognise that the motion is a motion that gives a very strong indication to the government about what this Assembly wants, but the executive still has the prerogative to exercise the power of the executive rather than the power of the Assembly, otherwise we will have to set about changing the legislation.

MR CORBELL (8.36), in reply: Mr Speaker, it is fairly clear tonight what is the will of this place and I am grateful to those members who have indicated their preparedness to support this important motion. It is also clear tonight that we have a minister for heritage who thinks that something is of heritage value only if you can see it or access it.

Mr Smyth: I did not say that.

MR CORBELL: That is exactly what the minister said.

Mr Smyth: You have misrepresented me.

MR CORBELL: I am sorry, Mr Smyth, it is exactly what you said.

Mr Hargreaves: Only streetscapes.

MR CORBELL: You said, "It's the streetscape. I can't see their blocks. It is not the blocks that are important; it is the streetscape." Mr Speaker, that displays a very limited understanding of the notion of heritage. Is the minister seriously saying that, unless he can visit Aboriginal sacred sites, they are not worth heritage listing? That seems to be his argument.

Mr Smyth: Again you take something out of context, Simon.

MR CORBELL: I will take the minister's interjection that I take words out of context. Let me throw this one at you, Minister. You used a definition of the word "review" in your defence of your government's actions in relation to this matter. You said that the words used by the Old Red Hill group, I think, were that "review" meant a formal assessment or examination of something with the possibility of change.

Mr Smyth, you should have read the whole definition. The whole definition of "review" according to the *New Oxford Dictionary* is a formal assessment or examination of something with the possibility or intention of instituting change. That is what this Assembly did last June and that is what you ignored. For the purpose of clarifying the record, let us look at the context of this decision last year. The land act spells out very clearly the powers of the executive and the powers of this Assembly in relation to the functioning of the ACT planning authority. Of course, it is a planning authority in name only because there is simply a public servant. It is a fiction of a planning authority, Mr Speaker.

Nevertheless, the land act sets out very clearly that the executive or the minister may give the authority written directions about the policies and objectives that it should pursue in the performance of its functions, directions to review—there is that word—the plan or any aspect of the plan, or directions about any other aspect of the performance of its functions. Those are the powers of the minister and of the executive in relation to the authority.

The act goes on to give the power to the Legislative Assembly to recommend by resolution that the executive give the authority written directions which are in accordance with the executive policy direction powers of the minister or the executive.

Nowhere in there does it say that the minister may give the authority written direction to change the Territory Plan. The word "change" is never used.

If we were to follow Mr Smyth's definition of how this all works, every time he asks the planning authority to prepare a variation to the Territory Plan, he does so in the language of review. That is a nonsense and we all know it to be a nonsense, because we know that the executive frequently gives the planning authority directions to review the plan and to effect a change to the plan.

Every time a draft variation is presented in this place it is to change the plan, but it has been done, presumably, under the section about directing the planning authority to review the plan or a part of the plan. Nowhere in the land act does it say that the executive or the minister has a power to direct the authority to change the plan. It says that the minister and executive have the power to review the plan. Clearly, in its day-to-day operations, "review" means "change". Clearly it means that, otherwise we would not continually get Territory Plan variations which propose to change the plan.

Mr Speaker, that is the power that I used when I moved my motion last year. But conveniently the minister has decided that on this occasion he will interpret the whole practice of directing the planning authority differently. Why will he do that, Mr Speaker? The reason he will do that is that he simply does not agree. He thinks that he can ignore the will of this place.

It is time for him to think again, because at the end of the day the people of Canberra have elected us to make decisions about a whole series of things, including one of the appropriate development controls in parts of our city. The majority of members said very clearly last June, insofar as it relates to the heritage area of Old Red Hill, that they do not think that we should have dual occupancy. It does not matter at the end of the day whether it is a matter of experts at 30 paces or not. The will of the people is paramount. We hold that truth to be self-evident. Mr Speaker, when the majority of the members of this place say what they want to be done, surely that is what should occur.

The whole structure of the land act does create tension between the legislature and the executive insofar as it does not allow this place to direct the planning authority; it only allows this place to recommend that the minister direct the authority. But let us understand the underlying sense of that. The underlying sense of that is that if the majority of members believe that it should be done and the minister says that he will not do it and is unable to convince the majority of members that his decision in retrospect is right, then he is subject to the sanction of this place. That is the dynamic built into the land act. You can all see it when you read these sections. I put the minister on notice that I will seek to sanction him if he ignores the will of the Assembly again on this matter.

Mr Moore made some comments in relation to review of the Territory Plan and how the plan can be changed. Mr Moore has given me some good ideas about making sure that we never have this problem again. I think that it is about time we moved some amendments to the Territory Plan. Instead of allowing the executive or the minister to give the planning authority directions to review the plan or any specified part of the plan, we should simply change the word "review" to "change". In that way Mr Smyth could not play his word games any more.

It is a pity that this issue has come down to that because it is much too important for Mr Smyth to hide behind semantics. I remind Mr Smyth of what I said in the debate last year:

> I do not want the minister to go away from this place thinking he can undertake a review and come back to this place and say there is no need to change it—

that is, to change variation 114—

> … I would like the minister, if and when he undertakes this review … to know that that is the very clear wish of this place.

That wish, of course, was to not allow a development intensity of more than one block in the Old Red Hill precinct. Mr Speaker, this is now about two issues. It is about what this Assembly meant and the failure of the minister to implement the will of the Assembly even though he said that he would. That certainly was duplicitous; there is no doubt about that. Further, it is about saying that heritage values are more than just about what you can see. They are about what is important and significant nationally and internationally and taking steps to protect it. I thank members for their support and I urge the Assembly to support the motion.

Question resolved in the affirmative.

Postponement of notice

MR SPEAKER: The Clerk has received written notice from Ms Tucker pursuant to standing order 109 setting the next day of sitting as the day for moving the motion listed as private members business notice No 3 relating to a significant tree register.

Administrative Appeals Tribunal (Amendment) Bill 1998

[Cognate bills:
Coroners (Amendment) Bill 1998
Oaths and Affirmations (Amendment) Bill 1998
Supreme Court (Amendment) Bill (No 2) 1998]

Debate resumed from 10 March 1999, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Coroners (Amendment) Bill 1998, the Oaths and Affirmations (Amendment) Bill 1998 and the Supreme Court (Amendment) Bill (No 2) 1998? There being no objection, that course will be followed. I remind members that in debating order of the day No 3 they may also address their remarks to orders of the day Nos 4, 5 and 6.

MR CORBELL (8.48): Mr Speaker, I am very pleased to be speaking on these bills this evening. The issues raised by Ms Tucker go to the heart of the contemporary view of Australia and indeed of the people of the ACT when it comes to the issue of self-

governance and people who are primarily served by government agencies, instrumentalities and other bodies.

Ms Tucker has taken a very positive step in proposing to remove from oaths and affirmations taken in our various courts and other tribunals references to the Crown. It is a move that I would imagine all members on the Labor side of the house are very pleased to support. I would hope that it would be supported by all members in this place because surely our primary obligation here is not to some hereditary monarch 10,000 miles away but to the people of the Australian Capital Territory.

People should swear an oath or make an affirmation not in the name of someone whose position is a matter of genetic inheritance—this is one of the most archaic principles you could have in a modern democracy for determining a position of authority—but to the source of authority in our own society, which is of course the people.

So these moves are welcome. They progress the debate about a republic and asserting our own independence and autonomy as a nation. It is interesting and very appropriate that we are debating this legislation in the ACT Legislative Assembly because the Legislative Assembly itself, unlike every other state and territory in Australia, is effectively the parliament of a republic. It is the parliament of a republic because we do not have some age old vintage vestige of a Crown, or the Crown's representative even, to approve and enact laws made by this place. We have a Chief Minister, who does that very effectively.

You have to wonder, Mr Speaker, why places like New South Wales and Victoria spend hundreds of thousands of dollars every year to maintain the charade—

Mr Moore: Millions.

MR CORBELL: Indeed, Mr Moore, millions of dollars each year to have a governor to directly represent Queen Elizabeth II in each of the states and territories, except the ACT, just for the sake of signing a law and choosing who will be the head of government. Correct me if I am wrong but I understand that even the Northern Territory has an administrator who is effectively the representative of the Crown through the Governor-General.

So, Mr Speaker, it has worked well so far. We have shown that we do not need a representative of the Crown to govern ourselves effectively and to have legislation approved, enacted and implemented. We have shown that we can choose our head of government without needing to take a little journey to government house somewhere, wherever that could be located—perhaps, Mr Moore, Reid would be a suitable place for a government house.

So if we do not need the Crown for those things, I do not think we need it for the oaths and affirmations that people have to swear or make. I think it is time for this Assembly to move on; it is time for the territory to move on. This is a progressive reform that I am very proud as a Labor member and as a republican to support.

MR STEFANIAK (Minister for Education and Attorney-General) (8.53): Mr Speaker, I assume that Mr Osborne's amendments are still current, as that may well be quite relevant. On the last occasion this matter was debated, my colleague, the then Attorney-General and the now Chief Minister and monarchist Mr Humphries, indicated that the Liberal Party would be opposing the legislation. He did so for very good reasons at the time, which I would submit are even better now. At that time a referendum had been called on whether Australia should continue to be a monarchy or become a republic. He felt that the legislation pre-empted that referendum. Indeed, he indicated that, although Ms Tucker is the first to criticise any perceived fault in a process which may pre-empt a finding, the bills that she had introduced would do just that.

I am glad to say that on that occasion the debate was adjourned. I am not quite sure how it happened but if you had a hand in that, Kerrie, well done, because it meant that the legislation did not pre-empt the referendum. I will give you the benefit of the doubt there—I am not quite sure how that happened.

However, here we are today and guess what? We have had that referendum and the people of Australia rejected the republic. The people might have rejected the politicians' republic, and if that is the case it is all the more reason why politicians in this place should not be trying to ram down people's throats the amendments put forward by Ms Tucker. The amendments would be fine if the people of Australia voted for a republic, but they did not. About 55 per cent of people—or was it even more?—voted for Australia to stay a constitutional monarchy; a constitutional monarchy, I might say, which has served us well. Historically, Australia would have to be one of the most stable democracies in the world.

Mr Stanhope: 70 per cent of the people in Macgregor want a republic.

MR STEFANIAK: Well, good on them. I note that the oaths contained in Ms Tucker's amendments are very similar to the oaths that are sworn in Fiji. Fiji was a democracy once; I do not quite know if it is now. I do not know if that is the best example. My colleague the then Attorney-General asked for some examples from around the world. He asked what was happening in Canada. Canada is an interesting case. In many ways it is a fairly similar place to Australia in terms of being a long standing democracy within the Commonwealth. It has been an independent country for many years. Canada's Citizens Act, which was updated as of 31 August 1998, contains an oath or affirmation of citizenship which states:

> I swear or affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, her heirs and successors, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.

A number of other oaths are worded in a similar vein. So it is interesting that Canada does not have the provision proposed by Ms Tucker.

Someone might say that the ACT is the only jurisdiction in which the majority of citizens voted for a republic. If Ms Tucker's amendments dealt only with people in the ACT and no-one else there may be grounds for some argument. It is an argument which might have legs but probably would not run very far; at least it would have legs. But such an argument does not apply in this case. Our courts not only deal with people from just the

ACT. The people who are going to swear these oaths will be from outside the ACT as well. These people will come from New South Wales, Victoria and the rest of the Commonwealth of Australia. They will not be restricted just to the ACT.

I think it is relevant to note that the people of Australia, and indeed the people of the states, voted to retain the current constitutional arrangements. This is the situation whether members of this Assembly like it not. Until such time as Australia does become a republic we are, whether people like it or not, a constitutional monarchy and our sovereign, our head of state, or whatever, is Queen Elizabeth II, the Queen of Australia, her heirs and successors, et cetera. Because of the result of the referendum, these amendments are inappropriate.

If we were to pass the amendments we would be arrogant politicians going against the will of the people. Pauline Hanson and those sorts of the people would probably have a field day, Mr Speaker. "Here we go again, all those wine and cheese pinko lefties in Canberra, all those Chardonnay socialists, getting rid of the Queen." Just think what people in the back lots of Queensland would be thinking. Quite seriously though, the republic option in the referendum got more and more soundly trounced the further you got away from Canberra into the surrounding shires of New South Wales.

It was very much a case of the alternative being the politicians' republic. I do not doubt that at some stage we probably will change our constitution. If we are going to do that, I hope we will do it in a better way than the half-baked way people went about it last time. But you cannot get away from the fact that we are still a constitutional monarchy, the Queen is still the Queen of Australia, and therefore this legislation is inappropriate.

I hear what people say and I suspect the numbers are against my party in this debate.

Mr Osborne: No, I will give you a choice in this. I am pro-choice. I want to give you a choice.

MR STEFANIAK: Good on you. I have read Mr Osborne's amendments and I might say that if, against the will of the Australian people, this bill gets up, at least Mr Osborne has proposed that there be a choice.

Mr Osborne: I don't like the Queen but I am going to give you a choice.

MR STEFANIAK: He is going to give us a choice. So I flag at this in-principle stage consideration of the legislation that certainly the Liberal Party will be supporting the choice provided for in Mr Osborne's amendments. I reiterate what I said about the referendum and I conclude by saying, "God save the Queen."

MR KAINE (9.00): I guess it goes without saying that I will support Mr Osborne's amendments. Unlike Mr Corbell, I was born a long time ago when it was customary to recognise the fact that the Queen was our queen, and I still do. Therefore, I find it quite objectionable when others attempt to remove my right to have that view, to remove my right to take an oath of allegiance to my queen. As far as I am concerned she still is my queen and while the Constitution of Australia recognises her as the queen of this country she will remain my queen—or unless I die first, which I probably will because I do not see the republic appearing in the foreseeable future.

I think those people who take it upon themselves to remove from those of us who value our history the rights that we possess are quite arrogant and quite above themselves. I repeat that I find it quite objectionable for Mr Corbell, the Labor Party or Ms Tucker to presume to have the right to say to me in future, "You will not be able to swear allegiance to the Queen of Australia."

Mr Osborne: Protest and don't come to vote on this.

MR KAINE: I am going to vote on it. I am going to support your amendments because, although you say you do not like the Queen, I suppose that is your right, too. But at least you are giving me the option. You are not saying to me that I cannot do what I have done all my life and what I will continue to do for the rest of my life.

As I have said, I find this sort of thing to be quite objectionable. I wonder where Ms Tucker thinks she gets the right from to impose her beliefs on me. This is supposed to be a democracy and it still is a democracy in which, under our Constitution, the Queen is recognised as our queen. Nobody can remove that right from me until such time as the status is changed by democratic process. We have heard already that there was an attempt to do that a little while back and it was rejected. Ms Tucker says, "That doesn't matter. In Canberra a majority of the people voted to do away with the Queen." It just so happens that a majority of the total votes in Australia plus a majority of the voting states are required to change the Constitution. It has always been the case that minorities—and 56 per cent of the population of Canberra is still pretty much a minority in the whole of Australia—lose. Yet, despite the fact that they lost that one, they try to impose this sort of thing on those of us who do not agree with them. I believe this to be quite out of order.

I will not support any of the four amendments proposed by Ms Tucker on this matter but I will support Mr Osborne's amendments that allow me the option of exercising my right, which has been a lifelong right and which I hope will remain a lifelong right that nobody should be empowered to take away from me.

MR OSBORNE (9:04): I know we have chuckled a little bit about this issue but I think there have been some serious precedents in respect of this legislation. I have said on the record a number of times that I support a republic and that I do not see that we as a nation need to have a queen or a king that lives on the other side of the world. But at the end of the day we went to a referendum and we lost. I accept that, Mr Speaker. I accept that, whether I like it or not, the Queen is the head of state of Australia.

To remove the option for people in here to swear allegiance to the head of state of this country is I think—what is the word I am looking for?

Mr Kaine: Over the top.

MR OSBORNE: Perhaps I will not be quite as harsh as Ms Tucker was earlier today towards my legislation. I have had the benefit of the dinner break so I am not quite as—

Ms Tucker: I was being nice to you.

MR OSBORNE: You were being nice to me, were you? Good.

Ms Tucker: You don't know what I could have said. I was very restrained.

MR OSBORNE: I will show more compassion towards Ms Tucker than she has shown to the people in here who want to swear allegiance to the Queen.

But let us take it a step further. The natural progression from Ms Tucker's option is to remove allowing people to swear on the Bible. There are people in here who do not believe in God. So that may well be the next step—let us just have an oath; do not allow people who believe in God to swear on the Bible. This would be regrettable.

Mr Corbell: It's nonsense.

MR OSBORNE: It is not nonsense. It is exactly what Ms Tucker is attempting to do with this legislation.

Mr Speaker, a couple of years ago the Administration and Procedure Committee looked at the issue of removing the opening prayer. At the end of the day I think we had a fair compromise in that people had the option to pray or reflect. I think Ms Tucker has not given much thought to what she is attempting to do with this legislation because it flies in the face of many of the things that she has said in this place about different topics. She is imposing her belief—a belief that I support—on the people in here, like Mr Kaine, who have had a lifelong allegiance to the Queen. I disagree with him. I do not swear allegiance to the Queen but we had a referendum and the Queen is here to stay.

I think some of the precedents that will be set by Ms Tucker's legislation are regrettable and I hope that she will give it some more thought in the future. As I said, I think I am in agreement with her on the issue of the monarchy but we lost at the last referendum. What my amendments do is give people a choice. This is the only time that you will see me putting forward amendments on being pro-choice.

MR MOORE (Minister for Health, Housing and Community Services) (9:08): Mr Speaker, I am pleased to join Mr Osborne on this pro-choice stance because it brings to mind a number of things I want to say. Mr Kaine mentioned that he had been taking the oath of allegiance all his life and that perhaps Mr Corbell does not understand that. Indeed, I remember that when I was commissioned as an officer by Mr Kaine I also took an oath of allegiance to the Queen and her successors, according to law. There is no doubt in my mind that there will be a time when, as a result of a referendum, the law will be changed and the Queen or her successors will no longer be our monarch. I would feel very comfortable about that.

Mr Kaine: If that happens, I will live with it.

MR MOORE: Mr Kaine, I would suggest to you that Mr Corbell probably does not remember what it was like to stand in a picture theatre when the national anthem was being played.

Mr Corbell: Fortunately not.

MR MOORE: Mr Corbell replies, "Fortunately not." I have to say that it is one of those memories that I recall but do not necessarily cherish. I rather actually cherish the times that we decided, "Bugger that, we're going to remain seated." It was a very short while after that that they decided that playing the national anthem in picture theatres was not a good idea.

Mr Speaker, there have been a number of precedents—and Mr Osborne mentioned the one of the prayer in this place—where we said, "Look, people have different opinions here. What we need to do is facilitate a way in which we respect each other and respect their opinions." I have to say that the fact that we are forced to make an affirmation or swear an oath to the Queen does not respect the view of people who have a republican attitude.

Similarly, we ought to be able to respect the attitude that is held be Mr Kaine and others. I think Mr Osborne's amendments do that without taking away the intention of Ms Tucker's legislation, which is to take the next step towards compromise and moving towards a republicanism approach, recognising there are some of us—and I am one of them—who would prefer not to swear allegiance to a monarch that is many miles away.

Mr Stanhope: Then support the bills.

MR MOORE: Mr Stanhope says, "Then support the bills." I will. I will support the bills as amended by Mr Osborne's amendments.

MR QUINLAN (9:10): Just briefly, Mr Speaker: like Mr Kaine, I have been around for some time. I remember when the monarch was the king.

Mr Moore: Well, that is before my time.

MR QUINLAN: Even as a kid, Mike, I was bemused by the concept of royalty. It still strikes me as crazy and I still wonder about people who believe in that. Royalty flies in the face of any perception of people being born equal. I will not cast aspersions on the House of Windsor, as well you could, and I do not claim to be a constitutional lawyer and therefore I would defer to others in terms of what structures we need in our society to replace monarchy, but I did give up a long time ago believing in Santa Claus, the Easter bunny and princes and princesses and I have to say that this still strikes me as humorous.

The people of the ACT participated in a referendum and voted for a republic—viva the republic. If it is within our jurisdiction to represent the will of the people by making these changes rather than preserving the status quo, then it would seem to me that by your own logic you would be supporting Ms Tucker's bill. It is within the province of the ACT Assembly to make these changes. Mr Stefaniak, if you want to represent our people then I think you should be on our side, mate, and you can give up believing in princes and princesses as well.

MR STANHOPE (Leader of the Opposition) (9.13): Mr Speaker, I will join the debate quite briefly. As has been indicated by my colleague, the Labor Party will be supporting Ms Tucker's bills. I concede that the Labor Party's commitment to the republic is well known and, of course, this commitment does influence our approach to and our views on

this issue. The point has been made by both Mr Corbell and Mr Quinlan that the ACT community supports the ALP in its views on this issue. I think it is fair to say that not only the ACT community, our constituents, support us overwhelmingly on this issue but, if you look at the nature of the debate that we had in relation to the republic, an overwhelming number of Australians support the Labor Party view on the desirability of an Australian head of state.

I refer to the most significant of the polls that were undertaken in 1999. In September 1999 a news poll of city and country voters showed in fact that 95 per cent of Australians agree that the head of state should be an Australian. On the weekend of 9/10 October a news poll conducted by the *Weekend Australian* revealed that 88 per cent of Australians strongly believe that an Australian should be the Australian head of state and reject the notion of Australia having as head of state a foreigner—a foreigner who visits the country once every two or three years.

The point was made in the extrapolation—a false extrapolation—that because the referendum was not successful Australians have accepted the notion of Australia having a foreign head of state. This is simply not true. The referendum was on the nature of a particular republic and it is simply a republican model that was rejected by the people of Australia. The people of Australia have not rejected the desirability of Australia having its own head of state and it is not correct to suggest that, because the referendum failed, Australians embrace the Queen. They do not. They may love her, they may think she is lovely, but they do not want the Queen to be our head of state.

Only 10 to 15 per cent of Australians persist in the view that the Queen should continue to be our head of state. You are representing 10 to 15 per cent of the broader Australian population and probably less than 10 per cent of the ACT population.

Mr Kaine: Don't upset me, Jon, or I'll bite ya.

MR STANHOPE: Mr Kaine, I am not reflecting on your age and longevity—I have no doubt you have many decades yet to live—but I fear that if you live just a few more years you will be living in an Australian republic. So gird your loins to the possibility of living under an Australian head of state or just give up the ghost and die soon.

Acknowledging the inexorable move to a republic and the overwhelming sentiment within the Australian and ACT populations for an Australian head of state, it follows that references in our legislation should reflect the aspirations of our modern, independent and democratic community and our overwhelming desire to have our own head of state as our representative, and that is why we support Ms Tucker's bills.

There are a range of other reasons why we support the bills. If you took the time to look at the oaths or affirmations that Ms Tucker proposes you would see some of the other very good reasons. The oaths or affirmations proposed by Ms Tucker require officer holders, including members of this Assembly, to commit to act well their offices and act impartially and according to the law. These elements are contained in the existing oaths and affirmations, but in the existing oaths and affirmations these elements of impartiality and lawfulness and commitment to office are subservient to the need to swear or affirm allegiance to the Queen. An oath or affirmation of allegiance to the Queen has no

relevance to the performance of office holders, nor to the commitment to serve the people of the ACT.

There is absolutely no purpose. It is a mindless anachronism to have to make such a commitment to the Queen and to have that commitment incorporated in the oaths or affirmations. I think it does distort the relationship between elected representatives and the people. The responsibilities that each of us have are responsibilities vested in us by the people of the ACT. To render those responsibilities subservient to some overriding commitment to the Queen, a foreign national living in a foreign country who barely visits us and has absolutely no relevance to us, is simply a nonsense.

As Mr Quinlan says, it is an absurdity, it is a joke, it is laughable, and we should not persist with it. As recently as this week—and I say this with great respect to Mrs Burke—we heard a member of this place swearing allegiance to the Queen. I found this quite peculiar, completely and totally anachronistic and something that I do not believe is relevant at all to this place.

This raises some other issues—and I will conclude on this point—in respect of the republican debate. Recently I raised the point that a way forward has been suggested in relation to the need to persist with the inexorable move to a republic. It is going to occur and I think it behoves parliaments and politicians around Australia to be part of the process. I would hope that the government in this place would support the suggestions that are being facilitated by Richard McGarvie and Sir Zelman Cowan in relation to a people's convention on the republic at Corowa.

I would hope that there is a republican amongst the ranks of the government. It appears that perhaps there is not. I would have hoped that at least there was one republican on the other side of this place but I am not sure that there is. Having said that, I think it behoves the government in this place to take seriously the moves that are being made nationally to reconvene the debate about how to move forward in relation to the attaining of a republic or at least to meet the desire of the Australian people to have an Australian as their head of state.

We can perhaps adjust our language in relation to this rather than talking about the move for a republic. We can talk in terms of the need or the desirability to attain what so many Australians want—an Australian head of state. I ask in this forum that the government take seriously the moves to convene a major and significant convention in Corowa this coming December in order to find a way forward that meets the aspirations of all Australians in relation to this very important issue.

MR RUGENDYKE (9.22): Mr Speaker, I suppose "ambivalent" is one word I would use to describe my interest in this debate, not having a great attachment to either the monarchy or the republic. But what I find objectionable is the attitude of the Labor Party and the Greens, and in particular Mr Stanhope's outrageous denigration of Mrs Burke's heritage.

Mr Stanhope: That's crap, Dave. Absolute crap, Dave.

MR SPEAKER: Order! That is unparliamentary. Withdraw it, Mr Stanhope

Mr Stanhope: What is unparliamentary—"crap" or "Mr Rugendyke"?

MR SPEAKER: Withdraw that comment.

Mr Stanhope: I withdraw "crap".

MR SPEAKER: Thank you.

MR RUGENDYKE: That sort of attack on our newest colleague in this place was highly objectionable. I also find it objectionable that, by Mr Stanhope's count, 10 to 15 per cent of people will be totally ignored. Perhaps the 70 per cent of people who did not vote Labor in the last election is closer to the mark.

Perhaps next year in a Rebikoff-led majority Labor government they will be able to push for this objectionable nonsense. How dare they suggest that Mr Kaine will be unable to swear allegiance to his monarch. If it were not for Mr Osborne, that right would have been taken away completely by Mr Tucker's amendments, which are supported by the Labor Party.

Mr Stanhope: He can do it every morning, Dave. He can get up and salute the picture of the Queen he has on his—

MR RUGENDYKE: Totally outrageous, Mr Stanhope. Mr Speaker, had it not been for Mr Osborne's amendments I would be voting totally against Ms Tucker's bills. I will support Mr Osborne's amendments so that Mrs Burke, Mr Stefaniak, Mr Kaine—

Mr Osborne: Mr Hargreaves.

MR RUGENDYKE: and Mr Hargreaves will have the choice to be able to swear allegiance to their monarch.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (9.26): Mr Speaker, I seem to recall that we have had debates on these bills, or some very similar bills, before so I suspect that we can go back to the *Hansard* to see the views that we had on those occasions. I am not sure what others have said in this debate but I simply want to record that I believe it is inappropriate to remove references to the Queen in our legislation until the Australian people make a decision about change. I know some people do not like the thought that the Queen is Australia's head of state, but the fact is that she is. I believe that the option should be there of swearing allegiance to her while she remains in that position. I think it is arrogant for politicians in this place or any part of Australia to remove references to the head of state in this way, pre-empting a decision which the Australian people and not politicians have to make.

MR SPEAKER: Ms Tucker, would you close the debate.

MS TUCKER (9.27), in reply: My first point is that this is not quite the precedent that some people seem to think it is. A couple of years ago we passed in this place similar amendments to some government bills. These amendments, which related to magistrates in the Small Claims Court, were agreed to in this place and the legislation now before us

is the next logical step in continuing to remove this quite irrelevant and anachronistic aspect of office.

Mr Stefaniak said in his speech that people from all over Australia would be coming to the ACT. But this legislation is about Supreme Court judges, coroners and members of the Administrative Appeals Tribunal swearing or undertaking their oath of office. So I am not quite sure what Mr Stefaniak was thinking. He may have misunderstood.

No-one has addressed a critical point that I am certain I would have covered in my tabling speech. I am surprised that Mr Humphries did not respond to it. The legal connection between Australia, the UK and the monarchy in respect of these functions no longer exists. Those legal ties have been cut. What we are doing now is asking officers to swear an oath of allegiance to the Queen. The Queen may well be the head of state but there are no legal ties so it is a pointless and irrelevant exercise.

It is literally about wanting to swear allegiance to the Queen because she is still the head of state in this country. But that is not relevant to officers' duties here. People in this place can swear allegiance to the Queen any time they want to. Anybody can stand up in this place and do that if they want to. But it is not relevant to the function of the officers that we are talking about in the legislation. What is much more relevant is that they serve the people of Australia—Australia is not even mentioned—and the people of Canberra. I think it is entirely appropriate that there be relevance in respect of the swearing of oaths of allegiance and that is exactly why we have put forward this legislation.

There has been a lot of debate about the republic but I do not think I will go into it. However, it is true that the majority of people in Canberra did want and support the republic and so it is interesting to me that suddenly you have this broader loyalty when it suits you in arguments. Often you are not interested in considering issues that I bring up which might go wider than the ACT but in this case it suits you to do so.

Mr Kaine: That is different.

MS TUCKER: Mr Kaine says, "That is different." Basically we know that people in the ACT are supportive of this so, if you are representing your constituents as you claim that you always like to do, you would be supporting this legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR OSBORNE (9.31): Mr Speaker, I ask for leave to move two amendments circulated in my name together.

Leave granted.

MR OSBORNE: I move amendments Nos 1 and 2 circulated in my name *[see schedule 3 at page]*. Mr Speaker, as I said earlier, these amendments give people an option. I can understand Ms Tucker's embarrassment in relation to this legislation because it is a poor piece of legislation that obviously was put forward a couple of years ago, and I am pleased that she has improved. Clearly she did not put much thought into it. It is a useless piece of legislation. I cannot see the sense in why we are considering it and I am trying to fix it.

MR STANHOPE (Leader of the Opposition) (9.32): Mr Speaker, I wish to indicate that the Labor Party will not be supporting Mr Osborne's amendments. I think the amendments negative the intention of Ms Tucker's bill and proposals. We support entirely the intent of the amendments that Ms Tucker proposes. As I said, Mr Osborne's amendments negative that. They do not address the fundamental issue of swearing or affirming allegiance to the Queen being irrelevant to taking and performing an office and, as a result, we will not be supporting the amendments.

MR KAINE (9.33): Mr Speaker, I will be brief. I think it goes without saying that I will be supporting Mr Osborne's amendments, even though he is not sure that he believes in them himself.

MR MOORE (Minister for Health, Housing and Community Services) (9.34): Actually, Mr Speaker, they do not negative the intention at all. They allow people like me to make an affirmation. I will have that choice. Mr Osborne, of course, will swear an oath and that will be his choice. I will choose not to recognise the Queen when I am making an affirmation after I am elected next time. These are the choices that we will make.

Amendments agreed to.

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

Bill, as amended, agreed to.

Coroners (Amendment) Bill 1998

Debate resumed from 10 March 1999, on motion by **Ms Tucker**:

> 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 OSBORNE (9.35): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR OSBORNE: I move amendments No 1 and No 2 circulated in my name *[see schedule 4 at page]*. These amendments are designed to assist Ms Tucker.

Amendments agreed to.

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

Bill, as amended, agreed to.

Oaths and Affirmations (Amendment) Bill 1998

Debate resumed from 10 March 1999, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

Question resolved in the negative.

Supreme Court (Amendment) Bill (No 2) 1998

Debate resumed from 10 March 1999, on motion by **Ms Tucker**:

> 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 OSBORNE (9.37): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR OSBORNE: I move amendments Nos 1 and 2 circulated in my name *[see schedule 5 at page]*.

Question put:

> That **Mr Osborne's** amendments Nos 1 and 2 be agreed to.

The Assembly voted—

Ayes 9		Noes 6	
Mrs Burke	Mr Osborne	Mr Corbell	Mr Wood
Mr Cornwell	Mr Rugendyke	Mr Hargreaves	
Mr Humphries	Mr Smyth	Mr Quinlan	
Mr Kaine	Mr Stefaniak	Mr Stanhope	
Mr Moore		Ms Tucker	

Question so resolved in the affirmative.

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.

Yarralumla Brickworks kiln

MR CORBELL (9.41): I cannot let pass a comment Mr Hird made in a correction he made to the Assembly earlier today, when he indicated that in his comments on the report of the Standing Committee on Planning and Urban Services relating to the heritage listing of Yarralumla Brickworks he had misled the Assembly by suggesting that the Staffordshire kiln at the old Canberra brickworks was built in Scotland and that in fact his information was that it was built in England. I am very happy to inform the Assembly that it was built in Canberra, in Yarralumla, based on a design from Staffordshire, England.

Yarralumla Brickworks kiln

MR MOORE (Minister for Health, Housing and Community Services) (9.42), in reply: I said to Mr Hird that when the opposition raised this issue I would support him and that if they moved a no-confidence motion in him as whip he would still get my support.

Question resolved in the affirmative.

Assembly adjourned at 9.43 pm

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Schedules of amendments

Schedule 1

LAND (PLANNING AND ENVIRONMENT) AMENDMENT BILL 2000 (NO 5)

Amendments circulated by the Minister for Urban Services

1
Clause 4
Page 2, line 13
Omit the clause, substitute the following clause—
"4. Variation of nominal rent release—change of use charge
Subsection 184A (2) is amended by omitting **"CUC = V1-V2"** and substituting **"CUC = (V1-V2) x 75%"**

2
Clause 5
Page 2, line 18
Omit the clause, substitute the following clause—
"5. Omission
Section 184C is amended by omitting subsection (5)."

3 (revised)
Clause 6
Page 4, line 1
Omit the clause, substitute the following clauses—
"6. Consolidation and subdivision—change of use charge
Subsection 187A (2) is amended by omitting **"CUC = V1-V2"** and substituting **"CUC = (V1-V2) x 75%"**
"6A. Omission
Section 187B is omitted."

4
Clause 7
Page 4, line 5
Omit the clause, substitute the following clause—
"7. Omission
Section 187C is amended by omitting subsection (5)."
5
Clauses 8 and 9
Page 5, line 8
Omit the clauses.

Amendment to the Minister for Urban Services' amendment No 1 circulated by Mr Hird

1
At the end of Mr Smyth's Amendment No 1, add the following:
"4A. Omission
Section 184B is omitted."

Schedule 2

FINANCIAL MANAGEMENT (AMENDMENT) BILL 1998

Amendment circulated by Mr Quinlan

1.
Clause 4
Proposed new subsection 11 (5)
Page 2, line 10—
Omit the subsection, substitute the following subsection:
"(5) The Principles of responsible fiscal management are:
(a) maximise the net asset position of the General Government Sector so as to provide a buffer against factors which may, in the future, impact adversely on the level of liabilities of the General Government Sector by ensuring that the total operating expenses of the General Government Sector do not exceed the level of that sector's operating revenue in the same financial year;
(b) when optimum levels of net General Government Sector assets have been achieved, maintain a optimum position by ensuring that, on average, over a reasonable period of time, the total operating expenses of the General Government Sector do not exceed the sector's operating revenue; .
(c) manage prudently the fiscal risks of the General Government Sector; and
(d) apply all available revenue for the maximum benefit of the people of the Territory."

Amendments circulated by the Treasurer

1
Clause 4
Proposed new paragraph 11 (5) (a)
Page 2, line 11—
Omit "reducing the total liabilities of the Territory to", substitute "ensuring that the total liabilities of the Territory are at".

2
Clause 4
Proposed new paragraph 11 (5) (a)
Page 2, line 13—
Omit "by", substitute "and".

3
Clause 4
Proposed new subsection 11 (6)
Page 2, line 25—
Omit "Executive", substitute "proposed budget".

4
Clause 4
Proposed new paragraph 11 (6) (b) (ii)
Page 2, line 33—
Omit "the Executive intends to take", substitute "intended to be taken".

5
Clause 4
Proposed new paragraph 11 (6) (b) (iii)
Page 2, line 35—
Omit “the Executive expects to take”, substitute “expected to be taken”.

Schedule 3

ADMINISTRATIVE APPEALS TRIBUNAL (AMENDMENT) BILL 1998

Amendments circulated by Mr Osborne

1
Proposed new clause 3A
Page 1, line 10—
After clause 3, insert the following clause:
3A. Substitution
Section 11 of the Principal Act is repealed and the following section substituted:
"11. **Oath or affirmation of office**
A person who is appointed or reappointed as a member shall, before proceeding to discharge the duties of his or her office, take or make before a judge—
(a) an oath or affirmation in accordance with Part 1 of Schedule 1; or
(b) an oath or affirmation in accordance with Part 2 of Schedule 1".

2.
Clause 4
Proposed new Schedule 1
Page 2, line 4—
Omit the Schedule, substitute the following Schedule:

SCHEDULE 1 Section 11
OATHS AND AFFIRMATIONS OF OFFICE
PART 1
OATH
I, [name], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve her in the office of (insert name of office of member of Tribunal) and that I will faithfully and impartially perform the duties of that office. So help me God.

AFFIRMATION
I, [name], do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve her in the office of (insert name of office of member of Tribunal) and that I will faithfully and impartially perform the duties of that office.

PART 2
OATH
I, [name], do swear that I will well and truly serve in the office of (insert name of office of member of Tribunal) and that I will faithfully and impartially perform the duties of that office. So help me God.

AFFIRMATION
I, [name], do solemnly and sincerely affirm that I will well and truly serve in the office of (insert name of office of member of Tribunal) and that I will faithfully and impartially perform the duties of that office.

Schedule 4

CORONERS (AMENDMENT) BILL 1998

Amendments circulated by Mr Osborne

1
Proposed new clause 3A
Page 1, line 8—
After clause 3, insert the following clause:
3A. Oath or affirmation to be taken or made by a coroner or deputy coroner
Section 10 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:
"(1) A coroner or deputy coroner shall not perform a function or duty of his or her office until he or she has taken or made—
(a) an oath or affirmation in accordance with Part 1 of Schedule 1; or
(b) an oath or affirmation in accordance with Part 2 of Schedule 1".

2.
Clause 4
Proposed new Schedule 1
Page 2, line l—
Omit the Schedule, substitute the following Schedule:

SCHEDULE 1 Section 10

PART1
OATH

I, [name], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve her in the office of (insert name of office) and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

AFFIRMATION

I, [name], do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve her in the office of (insert name of office) and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

PART2
OATH

I, [name], do swear that I will well and truly serve in the office of (insert name of office) and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

AFFIRMATION

I, [name], do solemnly and sincerely affirm that I will well and truly serve in the office of (insert name of office) and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

Schedule 5

SUPREME COURT (AMENDMENT) BILL (NO 2) 1998

Amendments circulated by Mr Osborne

1.
Proposed new clauses 3A, 311 and 3C
Page 1, line 9—
After clause 3, insert the following clauses:
3A. Substitution
Section 19 of the Principal Act is repealed and the following section substituted:
"19. **Oath or affirmation of office—judges**
Before proceeding to perform the functions of office, a judge shall take or make—
(a) an oath or affirmation in accordance with Part 1 of the Schedule; or
(b) an oath or affirmation in accordance with Part 2 of the Schedule;
before another judge, a justice of the High Court or a judge of the Federal Court.". **3B. Substitution**
Section 42 of the Principal Act is repealed and the following section substituted: "42**. Oath or affirmation of office—master**
Before proceeding to perform the functions of office, the master shall take or make—
(a) an oath or affirmation in accordance with Part 1 of the Schedule; or
(b) an oath or affirmation in accordance with Part 2 of the Schedule;
before a judge.".
3C. Substitution
Section 48 of the Principal Act is repealed and the following section substituted: "48. **Oath or affirmation of office—registrar**
Before proceeding to perform the functions of office, the registrar shall take or make—
(a) an oath or affirmation in accordance with Part 3 of the Schedule;
or (b) an oath or affirmation in accordance with Part 4 of the Schedule;
before a judge.".

2.
Clause 4
Proposed new Schedule
Page 2, line l—
Omit the Schedule, substitute the following Schedule:

SCHEDULE Sections 19, 42 and 48

OATHS AND AFFIRMATIONS OF OFFICE

Chief Justice, judges and master

PART 1

OATH

I, [name], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, and her heirs and successors, in the office of [*Chief Justice/*judge/*master]of the Supreme Court of the Australian Capital Territory, and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

AFFIRMATION

I, [name], do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, and her heirs and successors, in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

*State whichever is applicable.

PART 2

OATH

I, [name], do swear that I will well and truly serve in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

AFFIRMATION

I, [name], do solemnly and sincerely affirm that I will well and truly serve in the office of [*Chief Justice/*judge/*master] of the Supreme Court of the Australian Capital Territory, and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

*State whichever is applicable.

Registrar

PART 3

OATH

I, [name], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second and her heirs and successors, and that I will well and truly serve her in the office of registrar of the Supreme Court of the Australian Capital Territory. So help me God.

AFFIRMATION

I, [name], do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second and her heirs and successors, and that I will well and truly serve her in the office of registrar of the Supreme Court of the Australian Capital Territory.

PART 4

OATH

I, [name], do swear that I will well and truly serve in the office of registrar of the Supreme Court of the Australian Capital Territory. So help me God.

AFFIRMATION

I, [name], do solemnly and sincerely affirm that I will well and truly serve in the office of registrar of the Supreme Court of the Australian Capital Territory.