DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

27 February 2001

Tuesday, 27 February 2001

Tuesday, 27 February 2001

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

Justice and Community Safety—Standing Committee
Alteration to reporting date

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

> That the resolution of the Assembly of 31 August 2000, as amended on 30 November 2000, referring the Defamation Bill 1999 to the Standing Committee on Justice and Community Safety for inquiry and report, be amended by omitting "last sitting day of February 2001" and substituting "1 May 2001".

Scrutiny Report No 2 of 2001 and statement

MR HARGREAVES: I seek leave to present Scrutiny Report No 2 of 2001 of the Standing Committee on Justice and Community Safety.

Leave granted.

MR HARGREAVES: Mr Speaker, I thank members. I present the following report:

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 2 of 2001, dated 27 February 2001.

I ask for leave to make a statement.

Leave granted.

MR HARGREAVES: Mr Speaker, Scrutiny Report No 2 of 2001 contains the committee's comments on three bills and 67 subordinate laws and four government responses. I want to draw the Assembly's attention to two issues which arose out of consideration of Determination No 378 of 2000 regarding the Road Transport (General) Act and the Road Transport (Third Party Insurance Regulations) 2000. This determination was signed off by the minister, and it altered the provision of third party coverage during the Summernats. I want to advise members of the advice that we received, which I think would be useful for members, and it relates to the process of the disallowance of a subordinate law.

It was thought originally that, if a subordinate law was disallowed, it was regarded as having never existed. Our advice is that that is not so. The action of disallowance actually repeals a determination, and I think it us useful for members to be aware of that distinction. For example, where a charge has been levied by the government under regulation, there has been some discussion on what happens if that regulation is disallowed in terms of the refund of those charges where people have paid them. This

situation does not now exist because the repealing of a determination does not make the charges levied and paid in the preceding period illegal. I think that distinction should be noted by members.

The other thing that I wanted to raise about this particular determination was its reference to regulatory impact statements. Mr Speaker, I think it was late last year that the Assembly passed amendments to require the provision of regulatory impact statements where subordinate laws will have a major impact on a sector of the community.

We have not had a regulatory impact statement provided to the Assembly yet, but I wonder whether or not this determination, which cost the promoter a figure of $250,000, would constitute a major impact on a particular part of the community. It would have been interesting to have such a statement made by the minister to the chamber to see what the impacts of that determination would have been, because there was quite a lot of confusion running around the community at the time. People did not know whether they were covered for compulsory third party insurance. It would have been appropriate in this instance for such a regulatory impact statement to be provided.

Of course, sometimes these determinations are made with some speed and it is impossible for the minister to have created a regulatory impact statement in time. However, where such an impact statement should be prepared according to the law, there is also provision for the minister to exempt a particular case, but in doing so he needs to provide this Assembly with reason for his having done so.

I raise the issue about the regulatory impact statements because I know that we passed the Administration (Interstate Agreements) Act and for some considerable time members, ministers and their staff completely forgot about that legislation—did not comply with it at all—and it was only after there were some backside kicking contests that it actually got on the move. I would not like to see the law regarding regulatory impact statements forgotten also.

With that, Mr Speaker, I commend the Scrutiny Report to the Assembly.

Court Security Bill 2000

Debate resumed from 30 November 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.36): Mr Speaker, the opposition has indicated that it would prefer this bill not to be debated today—until some of the serious questions raised about the approach that the government has adopted in the bill are satisfactorily answered or otherwise dealt with. At the outset I should say that, in principle, we think it is vital to protect the judiciary and the staff from violence perpetrated by criminals or disaffected litigants. We could all agree that it is paramount that people are protected to the utmost and absolutely from violence.

However, in saying that, we are not open-ended or uncritical in out support of the approach adopted. In relation to this particular bill, I wrote to a range of stakeholders seeking their views on the necessity for the bill and on the content of the bill. I have to say that there was outright opposition to the bill from some sectors of the legal profession and support from other stakeholders that I consulted.

No-one, however, was able to point to a particular incident involving a weapon or sufficient violence to warrant the introduction of a bill limiting access by the public to the courts. The courts do not keep specific records of such incidents, the court does not keep records of charges relating to such incidents, and this raises the question of why the bill is necessary, and what actually prompted the government's determination to proceed with legislation of this sort.

In correspondence with me, the Bar Association of the ACT stated that it is unaware of any history of security problems in ACT courts—and, of course, its members use the courts on a daily basis representing a wide variety of litigants. The Bar Association regards the right of the public to enter the courts as fundamental to a free society and to the operation of our system of justice. In his letter to me, the President, Mr Purnell, said:

> A member of the public ought to be able to attend at court for no better reason than that he wishes to do so.

That is a sentiment that I accept and endorse. As responsible legislators, we need to take account of the worst case scenario that is possible under any legislation we pass. It is all very well to say that this bill will not affect the public's right to enter the courts and that we can have faith in the good sense of security officers. But under this bill a security officer who is not answerable to either the Chief Justice or the Chief Magistrate would be entitled to find that what the Bar Association says is a good reason for being in court is insufficient. The public could be barred from entering the court, or even the court building.

He said that it is of great concern—I am not sure whether these are his exact words but this was his sentiment expressed in his letter—that security officers may end up exercising their powers most often in relation to the unkempt, the poor and ill-educated, who unfortunately are most often involved, or accompanying those involved, in court processes.

As part of my consideration of the bill, I wrote to the Attorney-General. The Attorney-General, in his response, justified the bill by saying, amongst other things, that the legal authority for actions by security staff is uncertain and open to challenge. Well, it would be a very sad day when actions by security staff are not open to challenge. The Attorney went on to talk about incidents that occurred in 1993 and later during other high profile criminal trials. All of those trials were highly publicised and, with the exception of the Eastman matter, there were no reports of breaches of the peace, violent incidents or security incidents that demanded the introduction of this bill. Certainly there were concerns and rumours and threats, but there always are in the heated environment of trials of serious criminal charges.

I think it is interesting that, in response to me, the government reverted to claims about high-profile trials—in particular trials going back to 1993—to justify this particular piece of legislation. It really highlights the paucity of justification for this particular piece of legislation at this particular time.

I think it is fair to note that some years ago New South Wales managed the trial involving the two rival bikie gangs involved in the Milperra shoot-out without the need for special security legislation. Of course, there is a risk that people attending the courts will be violent. Many of them are charged with crimes of violence. Others are under great stress caused by the fact that they must give evidence against those charged with violence. Yet others are under great stress because the breakdown of their relationships and marriages have led them to seek the court's assistance. Neighbourhood feuds that have flared in violence come before the courts.

We accept and acknowledge that at times there are, within the environs of courts, within court buildings and within courts, people that have exhibited a tendency to violence, people that are violent and people that are in a highly charged emotional state. And, of course, the judiciary and their staff need to be protected from this potentially violent mix. But the question that has to be asked, and the question we are asking, is: is this bill the appropriate way to do it?

It was suggested that rather simpler amendments to the Supreme Court Act and the Magistrates Court Act could have empowered the Chief Judicial Officers of those courts to take reasonable steps to make their premises secure. This would ensure that, whatever action was taken, the security officers would be directly answerable to the chief judicial officers. Alternatively, or even in addition, the government could have ensured a role for the police in removing people from the court, and exempted lawyers, at least, from the bill's provisions. And there is another issue there that I will not labour in detail, but, for instance, the provisions of this particular bill apply to all legal representatives representing clients.

On what basis can you justify a provision that makes the legal representative of a person, albeit perhaps a violent person, appearing in a court in the ACT susceptible to a requirement that he provide to a security officer, his name, his address and the reason that he is in court; and, if he does not comply with those requests, that he be excluded from the court? You might say that it is a circumstance that would never arise; it is a trifle, an example that really does not warrant consideration or contemplation. But I insist that it does.

These are fundamental principles about the operations of our courts and our system of justice. We are potentially raising the scenario where a security officer, albeit in this extreme circumstance, has the power to exclude from the court a legal practitioner who, for whatever reason, simply refuses to explain his presence in court.

It is the chipping away of fundamental principles that is a danger. These are fundamental principles in relation to the operation of a whole range of our institutions, but in particular in relation to the operation of courts in the delivery of justice, and this should not be undertaken without some very serious consideration.

And that is the point here. At this point in the history of the operation of the ACT courts, there has been no attempt to justify why we actually need to wind back in this way a system in relation to freedom of access to our courts.

I reiterate the point that there could have been a role for the police. I will conclude by repeating that it is of paramount importance that, if justice is to be seen to be done, the courts must be open. The public and media need to be able to freely access the courts without impediment, without having to run the gauntlet.

If they cannot, there is a risk that the activities of the courts can be misrepresented if the decision-making process is undertaken in private. For that reason, I think it is important to address these issues in a balanced way—weighing up the importance of ensuring that the courts are open and accessible—and these particular initiatives need to be undertaken in such a way as not to deny accessibility, or be seen to deny accessibility, to the courts.

It is on that basis that I urge the Attorney to withdraw the bill and to reconsider its provisions, and in reconsidering its provisions to take into account some of the detailed comments of the scrutiny of bill committee. There is within the scrutiny of bills committee's report on this particular matter a quite detailed explanation of some of the issues and principles that go to ensuring that the system of justice—the operation of the courts that we enjoy here in Australia—really is the best that the world offers.

As I understand it, the government has not responded in any detail at all to the scrutiny of bills committee, and that is probably a pity. It is a detailed report. I might just ask the Attorney: you have not responded to the scrutiny of bills committee, have you?

That really does surprise me in terms of the operations of that particular committee. We have in relation to the court security bill a seven-page report by the scrutiny of bills committee—a detailed report on the issues of principle underpinning the operation of the court system.

Mr Stefaniak: I have—9 February, Jon.

MR STANHOPE: I am not sure I have that; that is a pity. You responded formally to the committee?

Mr Stefaniak: Yes—Scrutiny Report No 15 of 2000.

MR STANHOPE: What? Was that tabled five minutes ago? Can I just ask the Attorney across the chamber: when was that tabled?

Mr Stefaniak: The scrutiny of bills report?

MR STANHOPE: Your response to this particular report; was that tabled this morning?

Mr Stefaniak: I do not know if it was tabled; it was a letter to the chair.

MR STANHOPE: Was that tabled this morning? Yes, it has just been tabled—five minutes ago.

On that particular issue, I make the point that, in terms of the operations of the Assembly, it concerns me that the scrutiny of bills committee has presented a detailed report on this particular bill—and an excellent report. It is a report that goes into some detail about the issues that must be taken into account when we consider legislation such as this, so that as legislators we are all aware of what we are doing—what principles that have applied probably for centuries we are undermining.

I am talking about principles about the operation of justice and the openness of courts, and the need for justice to be transparent, the need for justice to be seen to be done, and the need for anybody that wishes to appear before a court to observe the operations of justice to have that untrammelled right. These are the sorts of issues that are discussed in this report—fundamental freedoms that we have enjoyed and that ensure the nature and strength of justice that we have in this country.

I am talking about principles that have ensured that each of us, as citizens of this place, has a range of rights and liberties that protect us when we perhaps find ourselves before the court. These are quite fundamental principles—principles that we should not toy with, principles that we should not just flick out the window on the basis of an unexplained need to enhance security at courts.

Of course, these issues are difficult to debate in a political context. Who could deny the need to ensure that judicial officials and people attending courts are absolutely safe and protected in all instances against violence? Who could argue against that? Who would argue against it? No-one.

So we rush into the acceptance of these sorts of laws, and we do it in the face of a detailed discussion by the scrutiny of bills committee which, it seems to me, is basically just ignored—actually observed; the Attorney gives it one sentence. This is the Attorney's response to the scrutiny of bills committee, which was tabled five minutes ago and which we did not have an opportunity to look at or address in any event. The Attorney addresses the seven pages of the scrutiny of bills committee in these words:

> I have given the Committee's comments about the underlying policy of the … Bill careful consideration, and would agree with the Committee that ultimately it is for the Assembly to consider the merits of the proposals.

And that is how the Attorney dismisses seven pages of quite detailed commentary.

Mr Stefaniak: Keep reading, there is a paragraph there.

MR STANHOPE: What, on that?

Mr Stefaniak: The government's feeling on that, et cetera.

MR STANHOPE: Yes, you have considered the merits and you think they are fine.

Mr Stefaniak: Yes.

MR STANHOPE: All right. To be fair to the Attorney, it continues:

> The Government firmly believes that the measures in the bill are necessary for those occasions, which though uncommon … are not unprecedented, where the nature of a matter before the Courts means that there is a risk of potential harm to the Court, its staff or members of the public.

We all agree with that, Bill, but you actually do not justify why, in light of all those policies and principles which the scrutiny of bills committee details in its report, you need to actually enact this legislation today and in this particular form. I think it is an issue, and I urge all members of the Assembly to give consideration to what we are doing to a system that has stood us in good stead for years, if not perhaps centuries. We continually chip away at systems that are there in place for very good reasons. We are, for the first time, in effect, allowing a security officer—not a trained police officer, but a security officer, not answerable to the court, not answerable to a judicial officer—a discretion to exclude from a court anybody that they believe cannot justify their presence in the court.

I think that there is fine tuning to be done—and so does the Bar Association of the ACT. Issues around the extent of that discretion should be dealt with, and this bill should not be passed in its current form. And that is the view of the Labor Party. We would prefer the government to actually take seriously that range of concerns and to amend the bill and reintroduce it.

We are prepared to support this bill if the government adopts that attitude. If the government does not adopt that attitude, the Labor Party will not support it.

MS TUCKER (10.54): I have actually had for a week or so, because we asked for it, a copy of this letter that Mr Stanhope has just been talking about, but I would support Mr Stanhope's concerns about the quality of the response and also the timing. Clearly it is very concerning when we have these sorts of things tabled while the debate is actually on. Mr Stanhope obviously was able to address this response quickly because it was so incredibly minimalist—so he was able to do it on the spot. I guess that is my major concern about this whole process because the government has, as Mr Stanhope said, responded with a page which basically says, "The Assembly can make up its mind and we think it's fine."

But here we have pages of comments from the scrutiny of bills committee, which I thought was a committee of this place that people thought mattered. I actually thought that people in parliaments thought that scrutiny of bills committees were useful and to be given serious regard. It does not look like that, of course, with this government, and we have made the comment before. There are just a couple of fundamental concerns that have been raised through the scrutiny of bills committee, and I will just read onto the record a couple of them because I think anybody who is supporting this legislation has to respond in detail to these concerns.

One quote from the scrutiny of bills committee is:

> The courts have attached great weight to the right of a person to enter and remain in a court. This right is the essential underpinning to the notion that the administration of justice by courts should be 'in the open'.

> Against this background, it is critical that the Legislative Assembly scrutinises the ways in which this bill restricts the common law rights …

That is what we are asking. Another comment further on in the scrutiny of bills report is:

> Are these powers an undue trespass on rights and liberties?
>
> As stated in *Laws of Australia* vol 11 para 119:
>
> > At common law power does not exist for the personal search by police of suspects prior to their being arrested. There is no general power at common law … enabling police to stop and search suspects, either by frisk or more intrusive search, or to seize their property.
>
> This statement applies with more force to persons who are not suspects, such as those who might be able to assist the police in some way.
>
> An unauthorised stopping, detention, or search of a person would constitute one or more forms of tortious or criminal behaviour. To stop a person and restrict their movement may amount to a false imprisonment. A search of a person involving any physical touching would involve a trespass to the person. A taking hold of their possessions, including a search of their baggage, would involve a trespass to property.
>
> It is sensible to speak of a "common law principle of bodily inviolability", as did the majority of the High Court in *Marion's Case* (1992) … Their Honours approved of a view that this principle was allied with, or the basis for, a right to privacy. In relation to powers of search, detention and the like, the common law began from notions of right to property, and to bodily inviolability. There is a link between the latter and the notion of a right to privacy, and it is this right which is nowadays seen as the starting point for an assessment of the desirability of these kinds of powers. For example, Feldman states that "[s]top and search powers have been described as 'a major interference with people's right to privacy, and a relatively minor interference with the right to freedom from physical interference'": Feldman, *Civil Liberties and Human Rights in England and Wales.*

I could go on. This is a really substantial scrutiny of bills report. No substantial evidence that this bill is necessary has been given to this Assembly. There are major problems with control powers and appointments of security officers in the courts; they have been well canvassed. Apparently the minister wrote to the committee—I have already covered that. I have already said that the minister's response to these concerns is entirely inadequate. There is not substantial evidence that security officers need and should be given such untrammelled rights and powers of search, exclusion and authority. The police, for example, operate under a system of safeguards against excessive use of their powers—a system of extensive complaints procedures and accountability of the highest order—as they should.

But in this bill, following on from the Olympic Security Bill, we are seeing a further shift by this government to allow security officers of any type the power to conduct frisk search, demand the name and address of any person or define any object as an offensive weapon. We have had a lengthy debate about the definition of "offensive weapon", and I understand that Mr Stanhope will be moving his amendment again. So, hopefully, we

can have a better debate on that with more members of the Assembly contributing. And, of course, there is also the power to exclude any person from any place.

I believe it is a step along a dangerous and unacceptable path of privatising and surrendering control over policing and security in our society. I do not think that this government has shown that it is serious in ensuring that it takes the responsibility of creating laws seriously. We saw it with the victims of crime legislation, and I think this is another example. I really hope that members will not support this bill and will vote against it even in the in-principle stage.

MR KAINE (11.00): I preface my remarks by saying that I support this bill in principle. I think that officers of the court are entitled to reasonable protection, whatever the circumstances that may arise. But, having said that, I have some problem with some of the detail, and I agree with much of the comment made in the report of the scrutiny of bills committee, of which I am a member. So it does concern me that we appear to be writing into our statute a situation where a security officer, who is not an officer of the court nor an official of any kind, is proposed to be given powers that, in my view, should rest only with a police officer or an officer of the court.

While I do not disagree with the principle of the bill, I think that the minister should be looking seriously at what the committee said and proposing amendments to eliminate those parts of the bill which are, in my view, exceptional and in some cases objectionable. So, when we get to the detail stage of the bill, I would hope that the minister himself will have regard for the comment made by the committee—it was not made lightly—and I would like to see the bill amended to take account of some of these matters that we raised.

I think that some of the law that is coming before this place lately is quite draconian, and there seems to be a theme running through it. There was the legislation that we were asked to pass that gives the security officers certain powers at sporting events and the like. I thought that was over the top, frankly, and this is running along the same theme.

Mr Speaker, while, as I said, I support in principle the notion that officers of the court and magistrates and judges should be able to provide themselves with suitable security for emergencies and the like, I believe that this bill goes a little bit too far in some respects, and I will be looking for amendments to delete those provisions.

MR RUGENDYKE (11.03): I presume that the genesis of this bill—and it becomes quite apparent when you read it—is that there is a need for security officers providing a service around the courts' precincts to have certain powers. It is of concern to me that the reason for that is that the AFP has, for whatever reason, given away its role in that process. However, I agree that that is a decision for the AFP and for government, and now we live with the consequences of that, and we see this legislation appear to allow the security officers to do the work of police, even though they are not trained by police with the appropriate police training.

So I struggle with giving security officers equal powers to police under these circumstances. What I cannot come to terms with is to give security officers greater powers than police have, and the scrutiny of bills report suggests that clauses 8 and 9 do confer greater powers upon security officers than the police have. When I read clause 8,

it concerns me that police in Civic are unable to use powers such as this when they see someone walk into the Canberra Centre, for example. This is a greater power than police currently have. It is the same is with clause 9. I am greatly concerned about those two clauses in particular.

I notice that the government amendment has picked up the scrutiny of bills committee's third concern about competency of security officers, but I do not think that the government's amendments have gone far enough in addressing the concerns of the scrutiny committee's report. I look forward to amendments to bring it back to at least equal powers with police, although that is a bit difficult for me. But I recognise that this legislation may be necessary to enable security officers to do their work. So I will look at amendments in the context of the debate. But I support the bill in principle.

MR STEFANIAK (Minister for Education and Attorney-General) (11.06), in reply: We are dealing just with the in-principle stage today. As I understand it, Mr Osborne too has amendments, and he will not be able to move them today. I propose that we adjourn debate when we get to clause 1. I thank members for their comments. Initially, Mr Speaker, I refer members back to the tabling statement by the previous Attorney, Mr Humphries. He stated that the territory does not, at the present time, have legislation to address the issue of security on court premises. Other jurisdictions do. He mentioned Victoria, Queensland and the Commonwealth.

He mentioned that when the judges of the ACT sit in the Federal Court they have the benefit of court security legislation, but when they sit in their own ACT Supreme Court there is no such protective legislation. He went on to say that the powers in this bill are consistent with the powers that exist in the Commonwealth jurisdiction in the Family Court and the Federal Court. As with the practice in these courts, of course it is not intended that every person who wishes to enter a court will be subject to a search. But the point there is that these powers are consistent with what is there for the Federal Court when the Federal Court sits in the ACT.

Mr Stanhope: That's not right, Bill.

MR STEFANIAK: Well, it is what the previous Attorney has said there. Check the Federal Court, Mr Stanhope. Mr Speaker, nothing is going to stop the public properly entering courts. I get a little bit concerned when Mr Stanhope presupposes that officials are going to misuse powers. In a way, it is almost suggesting that these people are not capable of exercising powers properly. I think that is largely wrong to say—

Mr Stanhope: Well, what was the Fitzgerald inquiry in Queensland—

MR SPEAKER: Will you be quiet, Mr Stanhope. You have spoken already.

MR STEFANIAK: Anyway, there are provisions in this bill that ensure those powers have to be exercised reasonably. In terms of the security officer, the security officer is defined in the bill as—I will just get the definition clause—as "a police officer", or "a sheriff's officer", and I do not think too many members have problems with that, or "a person who is appointed as a security officer under section 17". Now, Mr Rugendyke may have a concern there. I am not going to read out clause 17 but members can read

that again themselves in terms of how someone becomes a security officer and how a chief executive has to be satisfied in relation to a number of points.

There are clauses already in this bill which deal with security officers having to exercise powers properly on reasonable grounds. Now there are a lot of people governed by legislation in our community who are empowered to do something or other and who have to exercise those powers on reasonable grounds. Police officers have to do that from time to time. Government officials have to do that from time to time in terms of administering certain acts. And, if they do not, things flow from that.

I will cite a couple of clauses where that applies in relation to this particular bill: clause 8 subsection (2), clause 9 subsection (3). I will also quote clause 9 subsections (6) and (7), which relate to searches. Clause 9 subsection (6) says:

> A person who conducts a frisk search under paragraph (2) (b) is not civilly liable for an act or omission done honestly in conducting the search.

Clause 9 (7) states:

> A liability that would, apart from subsection (6), attach to a person, attaches instead to the territory.

That means the territory is liable for acts that are wrong by any security officer there.

So there are those checks. The government will also be bringing in its own amendments. Mr Stanhope, I think, also mentioned some words—"the current situation is uncertain and open to challenge"—and he stressed "open to challenge" as if any actions could not be open to challenge. Quite clearly, on those subsections I have just referred to in this current bill, actions are open to challenge. Actions always do have to be open to challenge in case someone—in this instance here we are dealing with security officers—misuses a power given to them. It is just like the actions of police officers and government officials enforcing acts are open to challenge. That is a fundamental part of our democratic system and it is incorporated in this bill. I think you have to read the real problem here. He mentioned "uncertain and open to challenge". I think the "uncertain" is crucial there. It is uncertain and open to challenge because of the uncertainty in relation to what exists at present.

Mr Stanhope quoted some concerns of the Bar Association. I noted here I had a letter expressing support for this piece of legislation from the Victims of Crime. Whilst not giving specific incidents, they raise some concerns which members may have heard from time to time in relation to that particular organisation. Here we are, it is a letter to Brett Phillips in the Criminal Law Section from Robyn Holder, the Coordinator of Victims of Crime. She thanks him for his letter of February regarding court security and firstly says:

> I welcome the initiative to enhance court security. It is timely for a number of reasons. First, there have been numerous instances where crime victims have been intimidated by the presence and activities of defendants whilst in and around court premises. Current court security staff have been very responsive in providing assistance as and when necessary. On occasion this assistance has extended to escorting victims to the car park. It would be useful, therefore, if the new legislation

> could allow security officers to exercise their powers at a reasonable distance from entrances to court buildings.
>
> On occasions when I or others have needed the assistance of court security, I have noted the constraints upon them in dealing with difficult clients. The skill of the security officers in defusing and de-escalating conflict is notable. I would hope that, whatever new powers security officers are granted, their primary strategy for responding to such persons will continue to be low key.
>
> Second, there have been a couple of times when highly volatile defendants, especially those who are without legal representation, have carried large items unchecked into open court rooms. On at least one occasion I was very concerned that the baggage may contain a concealed weapon.
>
> Finally, the suite of rooms where I and others are located are quite vulnerable. Again, it would be a welcome enhancement if court officers could assert stronger 'move-on' powers in situations that warrant it.
>
> I hope these comments are useful.
>
> Yours sincerely
> Robyn Holder
> Victims of Crime Coordinator

The idea of this bill is to ensure that police, the court's officers and the security staff there do have a clear legal authority when undertaking security measures for the protection of persons and property at ACT courts. I have indicated there are checks and balances on that. There have been several occasions in the past where security measures have been necessary to protect court staff, visitors or the conduct of hearings from violence or disruption. I think it is far from clear whether security staff have had an appropriate legal basis for their actions. This legislation will give court users and security staff certainty as to their respective rights and obligations, while at the same time ensuring that the processes of justice can proceed without risk or harm of disruption. The courts, the Victims of Crime Coordinator—and I have just read that letter—the DPP and the ACT Law Society all have daily experience of events in court, and they have confirmed the need for greater security measures.

I want to reiterate that the government does not intend the whole range of measures in the bill to be invoked every day or for every court user. Quite clearly that would be a nonsense; that would go against centuries of tradition of openness in terms of people attending court. But the measures in the bill are necessary for those occasions where the nature of the matter before the court means that there is a risk of potential harm to the court, its staff members or members of the public.

In developing the bill, the government was mindful of the need to balance the public interest in protecting the rights and the privacy of the individual with the public interest in protecting the judicial system from violence, disruption or intimidation. That is why the bill confirms the general public right to enter court, and that is why there are safeguards on the exercise of the powers under this act, some of which I have mentioned, such as the power to require a person attending court to provide information or submit to a frisk search. Those powers can be exercised only where the security officer concerned

believes, on reasonable grounds again, that it is necessary in the interests of court security.

The government does not anticipate establishing a permanent or a substantial security presence at court. However, this legislation will ensure that appropriate measures can be taken as and when they are needed. We would urge members to support the bill in the interests of protecting court users and the integrity of the justice system. It is too late if we say, "Look, it's not needed; we haven't had anything too serious there." That is debatable in its own right, and I hearken back to a few instances I think my colleague Mr Humphries mentioned in the tabling speech. It is too late if something happens, someone gets killed in there because the security situation is unclear. It is too late if someone gets seriously injured because the proper powers are not there. I would urge members to bear that in mind.

The government has carefully considered the comments of the scrutiny of bills committee and it has developed amendments to address the committee's concerns with some clauses—clause 5, 8 and 17.

Government amendments 1 and 2, which members should have now, both affect clause 5. Amendment 1 addresses the concern that the words in subclause 5 (1)(b) are ambiguous. Amendment 2 has been recommended by the Parliamentary Counsel and will omit a reference to an act that is to be repealed. The committee made a suggestion, which the government takes up in amendment 3, to amend clause 8. It ensures that a person who does not want to state his or her name, address or reason for attending court will actually have the option of leaving court instead of complying with the security officer's request.

Amendment 4 was one suggested by VOCAL, and that will ensure that, where there is no available security officer of the same sex as the person to be searched, the security officer requesting the search can ask only a member of the court staff of the relevant sex to conduct that search. As presently drafted, any person of the relevant sex can be asked to frisk another person, and I agree with VOCAL that that is not appropriate.

Amendments 5, 6 and 7 arise from the suggestion by the Law Society that the offence in clause 10 is unnecessary, as there are existing provisions which cover the same matters, such as sections 493, 494 and 495 of the Crimes Act. And amendment 5 omits clause 10, which, as it presently stands, makes it an offence to possess an offensive weapon in a court.

Amendments 6 and 7 are consequential amendments to clause 11. They omit references in that clause to clause 10. Amendment 8 implements the committee's suggested amendment to clause 17 so that the criteria for removing a security officer correlate better to the criteria for appointment as a security officer.

So that, briefly, is what the government is proposing in terms of amendments. We will listen with interest to the other amendments suggested by members at the detail stage. But, again, I stress to members that it is important for clarity, it is important to ensure that our courts properly operate, that relevant powers are in force to protect people who use that court. We have had some instances in the past; no doubt we will have more in the future—I can recall a number of difficult situations during the time I was in the court.

From the VOCAL letter, it quite obvious that the security people there are doing a very good job, but they point to some concerns there. I think the government legislation addresses those concerns and I think it is always very prudent to put in proper legislation and give people clear, well defined and necessary powers to do their job properly so that situations can be nipped in the bud before they get serious.

I would hate to see us end up with either no legislation covering this or legislation covering it that does not give relevant powers where they are needed, which could see someone seriously hurt in future. I am sure that is not the intention of members. I urge members to be very careful when we get to the detail stage in relation to this matter.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 9		Noes 7	
Mrs Burke	Mr Moore	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 Kaine		Mr Stanhope	

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together.

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

Legislation (Access and Operation) Bill 2000

[Cognate bill:
Legislation (Access and Operation) (Consequential Provisions) Bill 2000]

Debate resumed from 30 November 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly that this bill be debated concurrently with the Legislation (Access and Operation) (Consequential Provisions) Bill 2000? There being no objection, that course be followed. I remind members that in debating order of the day No 2 they may also address their remarks to order of the day No 3.

MR STANHOPE (Leader of the Opposition) (11.26): Mr Speaker, this bill represents another step into the brave new frontier represented by the Internet and electronic access to vital information. The bill deals with formal requirements to permit the authorised version of ACT legislation in its widest sense to be published on the Internet, and other formal requirements about the making, application and interpretation of legislation currently dealt with in the Subordinate Laws Act, the Interpretation Act and other acts. These latter acts are repealed so far as they cover the same ground.

There is much in the bill to applaud, particularly the publication of authorised versions of legislation on the Internet. Current versions of legislation available on the Internet through such databases as ScalePlus and Austlii are not authorised; that is, the courts, legal practitioners and others cannot rely upon them as the definitive version of the legislation.

This bill requires the Parliamentary Counsel to establish and maintain electronic registers of acts and statutory instruments. The Parliamentary Counsel may approve one or more web sites to publish the electronic register. This will ensure widely available authorised versions of ACT acts and statutory instruments, something which we should all applaud, Mr Speaker.

However, I think there are a couple of problems, some pointed out by the scrutiny of bills committee and some that are longstanding. Some I will attempt to address with amendments at the appropriate time, and one has a number of solutions that the government may be addressing.

Clause 28 is a machinery provision providing that the Speaker must arrange notification of laws that are passed. This provision can be traced from the self-government act to the Interpretation Act, where the power resides with the Chief Minister. I think it is appropriate that the Speaker be given the power. However, none of the earlier provisions or the standing orders bearing on this process contain any time limit within which the Chief Minister had to notify the making of the law. We have always relied on the convention that the Chief Minister would act promptly. That convention was reinforced by standing order 193 which required the Clerk to certify to the Speaker that a bill was a true copy of the bill as passed. If the Chief Minister had not acted promptly it was open to the Assembly to take issue over the matter.

I note, Mr Speaker, that no time limits are set in the provisions of this bill either. I think there is an issue there in terms of the potential discretion which exists and which may, in extreme circumstances, be exercised—of course, Mr Speaker I would never suggest that it would be done with any mal-intent—by a Speaker to determine the timing for the commencement of any legislation.

I might indicate, Mr Speaker, that I have circulated a number of amendments to clause 28, but I have concluded, after some quiet reflection and discussion, not to proceed with them. I will not proceed with those three amendments in relation to the time limit. I am simply making the point, for the record, that we acknowledge that there is a discretion in the Speaker. That discretion, whilst we will bear it, leaves me with some ill-ease, without reflecting at all on you, Mr Speaker, or any other Speaker.

MR SPEAKER: Thank you.

MR STANHOPE: Clause 33 of the bill re-enacts section 3 of the Subordinate Laws Act to provide that it is sufficient if any two ministers sign regulations to bring them into force. Mr Speaker, you may recall that the Labor Party prepared and presented a bill to amend the Subordinate Laws Act to require that one of the two ministers was in fact the portfolio minister. This was done to enforce ministerial and cabinet responsibility and to prevent the situation reoccurring that occurred in relation to the abortion regulations where two ministers who had no responsibility for administering the abortion regulations that members will recall we passed made the regulations over the apparent objections of the health minister—

Mr Humphries: When is that bill coming on for debate, Jon?

MR STANHOPE: We are debating it today.

Mr Humphries: No, the one you just talked about, the bill that you introduced.

MR STANHOPE: It has been overtaken by this piece of legislation. I have introduced the amendments that constituted the bill—

Mr Humphries: Only in respect of this matter.

MR STANHOPE: No, this is the matter. This is the entire bill. Actually, in the interests of the appropriate operations of the Assembly and the efficient operations of the parliament, Chief Minister, we are actually dealing with the matter now in the context of this bill. You have some objection to efficiency, do you, Chief Minister? I am sure you do.

MR SPEAKER: Order, please. I do not want a debate across the chamber, thank you.

MR STANHOPE: I am not debating now; I am just telling him. This is a matter that we are now proceeding with. I think members will recall that instance. I think it was a real Clayton's objection. We ended up with an absolutely absurd situation where two ministers introduced regulations that the minister responsible for the portfolio apparently objected to—I say "apparently" advisedly—which I think was an absolute nonsense in circumstances where a parliament is supposedly operating under Westminster principles and endorsing notions of cabinet solidarity and ministerial responsibility. A minister responsible under the administrative orders for the administration of a piece of legislation delegated all of his responsibilities to his parliamentary colleagues in a circumstance where he opposed supposedly absolutely the nature of the regulation.

I think this is an absolutely nonsensical situation for us to tolerate. A minister responsible for the administration of a piece of legislation stood in this place and said, "I oppose absolutely these regulations which my ministerial colleagues are forcing on me," and then voted against regulations that his ministerial colleagues introduced in relation to a piece of legislation for which he was solely responsible. It undercuts to a degree that we should not tolerate.

Mr Quinlan: He should resign, I reckon.

MR STANHOPE: Absolutely. This is a major Westminster principle. It is about cabinet solidarity and the need for a cabinet and a government to accept responsibility for the actions of the government. I am sure there is no starker illustration anywhere in any Westminster parliament of the subversion of the notion of cabinet solidarity than this. One cabinet minister responsible for the administration of a piece of legislation simply bent over and allowed his cabinet colleagues to make his legislation for him, legislation which he now is required to administer.

I will be moving amendments that, as the Chief Minister points out, I had drafted as amendments to the Subordinate Laws Act, a circumstance which the Chief Minister finds odd, for some reason that escapes me. I find the Chief Minister's concern about that even odder.

I turn now to clause 39 of the bill. Once again we raise the spectre of the role of the scrutiny of bills committee in relation to the scrutinising of legislation and the effect of the very good reports of the scrutiny committee on informing debate in this place. Clause 39 of the bill, according to the scrutiny committee, may obstruct access to the law because it permits the incorporation of any other existing document into a statutory instrument. The Commonwealth parliament's scrutiny committees refer to this as "calling up" another document and have often commented adversely on the practice. This is because a person reading the instrument is often left without the text of the document that is called up, or, if there are a number of editions of the "called up" document, there can be some doubt as to which edition is actually referred to by the statutory instrument.

There is also a problem of access. While applauding these amendments, particularly in relation to the Internet and the publication or re-publication of legislation, one applauds the extent to which this bill will make the law so much more widely available to citizens. That is something that has to be applauded. It seems to me that the calling up provisions that are part of clause 39 of the bill to some extent undo the availability of legislation insofar as they refer to other documents that are not part of the legislation, documents which in some circumstances could be quite difficult to get hold of. Then there is always the issue of the re-publication of that document: which particular version are we talking about, which particular edition, where do you go to get it and how much does it cost? We all know how difficult it is, on occasions, to find not only the law but also, in relation to this sort of called-up document, the range of documents that could be included in the list of documents that can be called up. That is even far more problematic. That is a problem that I hope the Attorney will address in his comments on the bill.

I am also concerned, Mr Speaker, with one aspect of part 10.3 of the bill which empowers the Parliamentary Counsel to make editorial amendments and other textual amendments of a formal nature to laws being re-published. The editorial amendments he is permitted to make are limited to such matters as typographical errors, correcting or updating references to laws, numbering of provisions et cetera, and we have no difficulty with that. It is only appropriate that the Parliamentary Counsel should be able, without reference back to the parliament, to make amendments of that sort.

I am concerned, however, with the addition, at the end of the list of the sorts of amendments that the Parliamentary Counsel can make, of the reference to amendments of a kind prescribed by regulation. Perhaps this harks back to the circumstance in relation

to the way in which the abortion regulations were made. We now find that the Parliamentary Counsel is to be empowered to make a list of editorial amendments, something we all support and something he has been doing, I think, ever since the year dot. We all agree that he should be empowered to make these sorts of amendments, but then we have the addition of unspecified kinds of amendments, namely, a kind of amendment prescribed by regulation. What does that mean?

Before I go on to that in more detail, I point out that this provision has some vital differences to the power contained in standing order 191, whereby the Clerk, acting with the authority of the Speaker, may amend a bill. The Clerk may only amend a bill if he is acting with the authority of the Speaker. In other words, an elected member of the Assembly will consult the Clerk before any amendment is made. There is no such safeguard or limitation on the Parliamentary Counsel. Neither the Speaker nor the Clerk are permitted to amend an act. That is a power reserved to the Assembly as a whole.

There is one other difference in relation to this too; namely, that the Parliamentary Counsel is to be empowered to delegate any of his powers under the bill to a public servant. I assume that the delegation that the Parliamentary Counsel will make will be to a public servant in his office, but the definition of public servant is extremely broad. Whilst one has great faith in the office of Parliamentary Counsel and the expert service they are providing, and in their undoubted integrity, we now have a situation in which the Parliamentary Counsel may make amendments of the kind prescribed under the regulations and that he may delegate any of his powers to a public servant of the ACT. So there is a circumstance here where regulations can be made and a public servant may amend an act, pursuant to a power delegated to him, of a sort that is prescribed in the regulations. Clause 104 provides that the Parliamentary Counsel may make an amendment of a kind prescribed under the regulations.

Normally we are quite relaxed in this place about regulation-making provisions and they are passed without too much comment, but I think there is a concern in relation to this particular regulation-making power. I think there is the potential for this particular power to transfer to the office of Parliamentary Counsel some of the prerogatives of the Assembly. I say all this, of course, without reflecting in any way on the integrity of anybody in the Parliamentary Counsel's office, or any public servant of the ACT. I think we, as a parliament, with this scheme, are creating circumstances—perhaps they are extreme circumstances, but we should always be mindful of extreme circumstances—whereby there is the potential for a public servant to amend an act in a way that is prescribed by regulations which have yet to be made.

Mr Speaker, these provisions call upon the Parliamentary Counsel to make judgments about whether an amendment is merely to bring the law into line with current drafting practice, or whether the change would not change the effect of the law. As the scrutiny committee says, these judgments raise the distinct possibility that an editorial amendment by Parliamentary Counsel would be seen by members of the public, including perhaps the courts and the legal profession, as changing the effect of the law and thus embroiling the office of Parliamentary Counsel in political controversy. I think it is far preferable, Mr Speaker, for the Parliamentary Counsel to remain independent and impartial, as he is, and continue to provide the excellent service that the office provides to the Assembly. No potential circumstance should be created which could involve that office in any way in political debate or political controversy.

Apart from those matters which I have foreshadowed I will seek to make some amendments to, the Labor Party supports this bill. The Labor Party thinks that the principles underlying this bill are excellent and should be supported. It is, I think, a tremendous advance to see these sorts of amendments being made, particularly to the capacity for legislation to be made so much more broadly and cheaply available to the citizens of the ACT.

MS TUCKER (11.42): The Greens also will be supporting this legislation. I have just been speaking to members here and there seems to be agreement that we will not go into the detail stage because 20 pages of amendments have been tabled by the government. There also are amendments from Labor on which I have just had a quick briefing from someone in the chamber, but that is just not good enough. I want time to have a close look at what these amendments are. Some quite serious issues have just been raised by Mr Stanhope that I think I need to give serious thought to, so hopefully someone will adjourn the debate, or I will anyway, after the in-principle stage.

As other members have said, and as stated in the tabling speech, this is about changing the emphasis on publishing legislation and related documents from printed to electronic form. Of course, printed versions of legislation will still be available, and it is very important that that is always the case. I see also that Internet users will be able to download and print material, so this is about making the laws of the ACT more accessible, and that is worthy of support. Electronic publishing is a more efficient process. It can allow for faster publication and updating of legislation. The public also will be able to access only those parts of legislation of interest to them at a particular point in time without having to buy sets of documents that may quickly go out of date.

There is, of course, always the question of access to the technology, the so-called digital divide, and that is why it is important, obviously, always to have printed versions, and also to make sure that there are policies and programs in place to facilitate people becoming familiar with the technology if they so desire. Access to the hardware, of course, is also something that has to be ensured. Electronic access to information is not totally free. People have to have their own computer or have to be able to access one, and the cost of printing material is also something that people have to carry.

On balance, I believe this bill is worthy of support. The issues of access that I have briefly raised are currently being looked at by means of the task force of the government that is looking at issues of access, so that will be a debate that continues.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.45), in reply: Mr Speaker, I want to add briefly to this debate by commenting, first of all, on the broad thrust of the legislation. I think it is very important that there is recognition in this legislation of the changing nature of people's access to legislation. Legislation needs to respond and to adapt to changing circumstances, and the support from around the Assembly for legislation being updated to reflect that is welcome.

I want to make a brief comment on the arguments put by Mr Stanhope for his amendment, which is being circulated in the chamber, about the power of the executive to make regulations. Mr Stanhope originally put his legislation to this effect on the table quite some time ago and appeared to have lost interest in it, but now he has returned to

the issue in the form of amendments to the government's bill. Perhaps that is a strange way of dealing with it, but nonetheless he puts it forward for consideration today.

Mr Speaker, I think Mr Stanhope continues to misunderstand the way in which the executive in any government operates in such matters. When Mr Stanhope originally put forward legislation to deal with the same thing as his amendments today he seemed to operate on the misapprehension that the executive met together to make decisions about the formation of regulations. I would be boldly prepared to venture the view that no executive anywhere in Australia actually does that, and, indeed, none anywhere in the world. The nature of regulations is that it is subordinate legislation. It is made technically by the executive but in fact by members of the executive, usually members associated with a particular area of operation of the government, who exercise effectively a delegation from the executive to consider and make regulations. That is the way, I have no doubt, that executives operate right across the country.

Mr Speaker, the problem I have with Mr Stanhope's amendment is that I think it cuts across the self-government act, which expressly provides that there is a power for a minister to act on behalf of another minister. The provision I am referring to is section 43 (2) of the self-government act which allows the Chief Minister to authorise a minister to act on her behalf or his behalf or to act on behalf of any other minister. That power has been exercised continuously throughout the life of the Assembly by various chief ministers, and it is exercised today by me in allowing other ministers to act on each other's behalf.

What Mr Stanhope's amendment would effectively do is say that that power, granted in the self-government act, is not to be exercised, at least in the case of the power to make regulations. The power is not circumscribed by the self-government act in any way. It is a general power to be provided in any circumstance when a minister needs to act. I venture to say that there is at least an argument that Mr Stanhope's contention is in breach of the self-government act. At the very least one could say it is in breach of the spirit of the act, which is to allow ministers to act on each other's behalf.

Mr Stanhope obviously is still smarting over the making of regulations to do with maternal health regulations, Mr Speaker, and that is an argument for another day. Clearly, the power for ministers to act on each other's behalf is a very useful concept where you have problems arising out of such things as the exercise of a matter of conscience. Each minister administers legislation in any government where they may have a personal conflict as a result of a matter of conscience. A minister who administer health legislation, for example, which governs the conduct of abortions in public health facilities of the ACT will have to administer that act and those regulations consistent with his obligations under the law, but also where there are personal issues arising from that. If we were to say that no minister can serve as health minister if they do not fully agree with the full ambit of the law with respect to all the matters within that portfolio, and that concept could apply in lots of other areas of government as well, you have a very serious constraint on people's ability to hold those particular offices of state. It is much more sensible to have devices to avoid that problem should it arise.

The obvious device is the one that was used in the case of the maternal health regulations where Minister Moore felt personally unable to support the making of the regulation. It was, however, the view of the government that it should be made, and the regulation was

made, using the device of a minister acting for another minister, as I recall, myself and Minister Smyth. That is better than the alternative, which is that Minister Moore, confronted with a cabinet decision with which he is unable to live, has to stand aside, according to convention, as minister for health. There is no sense in that.

The inflexibility of the position that the Labor Party has put to the Assembly today is a reflection of this very narrow, unyielding kind of approach they take on such matters, which does not accommodate the fact that there are people with a variety of views and a variety of issues of conscience which ought to be accommodated in a framework such as ours. We are a very small place, Mr Speaker. We do not have the luxury of huge numbers of members to play a large number of roles, and I think we should adapt our system accordingly. Indeed, the system we use here is the same system used in every other parliament in Australia.

Mr Stanhope: Not in relation to a conscience vote. It is different from every other parliament in the world.

MR HUMPHRIES: I do not know whether the issue has arisen in any other parliament in this way, but I dare say that if a minister for health found himself unable to act in respect of a particular matter like this, arrangements would be made in other parliaments to accommodate that person. I would be very surprised if that was not the case.

I strongly urge the Assembly not to give in to the sort of absolutist approach which Mr Stanhope has put in his amendment. It is not necessary. It does not achieve anything of importance or value in this place.

Mr Stanhope: So Westminster conventions aren't important. We've bloody seen that.

MR HUMPHRIES: I know that Mr Stanhope is a great defender of the Westminster traditions. It is a little surprising, I would have thought, for someone in the Labor Party to argue that. It is more traditional for my side of politics to be heard mouthing those words.

Mr Stanhope: Garbage. What a lot of garbage.

MR SPEAKER: Order! If you are upholding the Westminster tradition, I suggest you stop interjecting, Mr Stanhope.

MR HUMPHRIES: I think, Mr Speaker, the system needs to be capable of adaptation and change. The system needs to be made to work in the best interests of the ACT community. We do not do everything here according to Westminster, and nor should we, Mr Speaker. We should have a system which works in favour of our citizens and our requirements as a community on the other side of the world from Westminster. I am a great defender of Westminster. I think it is a very important political inheritance of all Australians and one that unites all of us throughout the Commonwealth world, but it should not be followed slavishly. There is no value in doing so.

I am sure, Mr Speaker, that we all have reason on occasions to want to repudiate some element or another of the system because it does not suit the needs of the ACT. On those occasions I look forward to reminding those opposite that it is not necessarily the be-all and end-all of governments or parliamentary operation.

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

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

Debate resumed from 30 November 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

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

Law Reform (Miscellaneous Provisions) Amendment Bill 2000

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

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (11.55): Mr Speaker, the former Attorney-General presented this bill on 18 October 2000. The bill would reverse the decision of the High Court and permit the apportionment of damages in contract according to the degree of fault of each of the plaintiff and defendant. It only applies where the claim in contract could also be made in tort. This ensures that claims in tort and contract are treated in the same manner and that the law is returned to the position most courts believed it to be in prior to the High Court's decision in the case of Astley v Austrust.

I understand that the Standing Committee of Attorneys-General considered the issue and recommended that all jurisdictions legislate in the same way. The bill does have an element of retrospectivity, which the former Attorney justified on the basis that it was restoring the law to what it was before the High Court decision. Mr Speaker, the Labor Party is happy to support the bill.

MS TUCKER (11:56): The Greens are also supporting this legislation. We understand that it amends the Law Reform (Miscellaneous Amendment) Act so that it is clear that, even if you contribute to a wrong caused to you, you are not ruled out from pursuing some restitution simply on the basis that some of the responsibility falls on you. I understand that the government's action in this regard returns the law to the understanding that existed before Astley v Austrust Pty Ltd in the High Court, which found that contributory negligence ruled you out of any claims in regard to a wrong under contract.

The increasing importance of contract law over past years is a compounding factor and it is clear that such a situation needs to be addressed. This amendment simply ensures that provisions regarding contributory negligence will apply equally to proceedings based in tort or contract.

MR STEFANIAK (Minister for Education and Attorney-General) (11:57): I thank members for their comments. There will be some simple amendments here to clause 4 and schedule 2 simply to correct the date on which section 11 of the Compensation (Fatal Injuries) Act of 1968 was inserted by the Compensation (Fatal Injuries) (Amendment) Act of 1991. The date in the bill is wrong. We will move an amendment to correct the commencement date of the law. The date should be 6 December 1991 rather than 10 May 1991. I thank members for their comments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STEFANIAK (Minister for Education and Attorney-General) (11:58): Mr Speaker, I seek leave to move together the two amendments circulated in my name.

Leave granted.

MR STEFANIAK: Mr Speaker, I move the two amendments circulated in my name in relation to that incorrect date. *[see schedule 1 at page 347]*. As I have already indicated, Mr Speaker, the date mentioned was incorrect. The correct date is in fact 6 December 1991. This corrects that error.

MR SPEAKER: Would you mind formally presenting the explanatory memorandum?

MR STEFANIAK: Mr Speaker, I formally present the explanatory memorandum.

Amendments agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Statute Law Amendment Bill 2000 (No 2)

Debate resumed from 30 November 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (11:59): Mr Speaker, the Attorney-General introduced this bill on 30 November 2000. As with similar previous bills, there are no new policy initiatives in this bill which makes quite a number of minor structural or technical amendments to an array of acts and regulations and repeals redundant or obsolete acts and regulations. I do note, Mr Speaker, that the scrutiny of bills committee had no comment on this bill other than to say that this is a bill for an act to make technical and housekeeping amendments to a number of the laws of the territory.

I anticipated that the scrutiny of bills committee might have made some comment on amendments that the legislation proposes to the Interpretation Act 1967. As I said, the amendments are said to be clarifying the power to make statutory instruments. However, I think it is notable that proposed new section 27G (b) does provide for a delegation of legislative power. I think it is saying that a subordinate law can further delegate the determination, application or regulation of a matter—for example, an act that says fees can be determined by regulation. The regulations might say that the fees are those set out in a determination by the minister and then the minister authorises a determination setting out the fees.

Again, Mr Speaker, the proposed new section 27G (d) (1) (b) does look like a Henry VIII clause by permitting a statutory instrument to amend an act to permit an appeal against the decision under the act. On its face there would be no objection to this provision, except that if the legislature had thought an appeal provision was necessary in any particular case, perhaps it should have included that provision in the act. Again, the proposed view of section 27G (c) provides that if an act authorises or requires a matter to be regulated, the power may be exercised by prohibiting the matter.

As I said, Mr Speaker, I had anticipated that the scrutiny of bills committee might have looked at that. The scrutiny of bills committee, however, thinks those amendments to the Interpretation Act are technical and housekeeping amendments. I will defer to the scrutiny of bills committee in this instance, and the Labor Party will support the bill.

MR STEFANIAK (Minister for Education and Attorney-General) (12.01): I will close the debate. I thank Mr Stanhope for his comments, Mr Speaker.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with detail stage.

Bill agreed to.

Sale of Motor Vehicles Amendment Bill 2000

Debate resumed from 7 December 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (12:02): Mr Speaker, this bill was introduced by the Attorney-General on 7 December 2000. It inserts a registration of interest provision in the Sale of Motor Vehicles Act. The bill defines registerable interest in a motor vehicle. Registration of an interest places potential purchasers on notice that the vehicle may be encumbered by a debt such as a lease or hire purchase agreement. Failure to register an interest means that an honest purchaser in good faith will retain the title to the vehicle if a dispute occurs.

The bill also provides for circumstances where the purchaser does not acquire the vehicle free of registrable interest; e.g., sale to a member of the same household or related companies. In other words, Mr Speaker, the bill permits the ACT to participate in the New South Wales REV scheme. These provisions were formerly in the Registration of Interest in Goods Act 1990 which is repealed by this bill. The act was designed to allow for registration of interest in all types of goods declared under the regulations. No goods other than motor vehicles have ever been described.

I notice, for the record, Mr Speaker, that the scrutiny of bills committee, in its consideration of this bill, had no comments to offer. The Labor Party acknowledges that the provisions of this bill, to the extent that they do allow ACT residents to participate in the New South Wales scheme, do provide a quite significant extra level of security or support to the purchasers of motor vehicles, particularly here in the ACT now that we have become the property crime capital of Australia with the highest level of car thefts in the nation and burglaries going through the roof. I think people in the ACT are ever mindful of the fact that you never know whether a car you are buying was flogged or not, or whether the person trying to flog it to you had an entitlement to the vehicle.

In a way I guess the government is responding to the fact that it has failed miserably to halt property crime in the ACT. One of the responses of the government to the fact that it has turned the ACT into the car theft capital of Australia, if not the world, is to introduce a system which seeks to give purchasers of motor vehicles some security. I guess purchasers of motor vehicles can take some comfort from that, but it is very cool comfort, Mr Attorney, to all those people who are having their cars pinched in the ACT because of the appalling failings of your government.

We support this bill, Mr Attorney, acknowledging that it is a belated response by this government to the fact that it has turned the ACT into the burglary and car theft capital of the world.

MR STEFANIAK (Minister for Education and Attorney-General) (12:05): What an amazing speech on the Sale of Motor Vehicles Amendment Bill, Mr Speaker. In the next few days, Mr Stanhope, I will be announcing an initiative which I am sure the police will agree will substantially reduce some property crimes. It will be very interesting to see whether Mr Stanhope will support it or not. However, more of that later.

Mr Stanhope: Yes, 80 per cent of car thefts are okay. It's all right if you are the eight out of 10.

MR STEFANIAK: I think Mr Stanhope should check the Labor Party's appalling record on law and order in this Assembly when they were in government.

Mr Stanhope: The eight out of 10.

MR SPEAKER: Order, please! I don't want a shouting match on either side.

MR STEFANIAK: Mr Speaker, why don't we get back to the point in issue, and that is this bill. This bill introduces improvements following developments in the New South Wales act and the notice of registrable interest. I think Mr Stanhope did refer to this before he launched into his tangent. The bill is actually defined to encompass

constructive notice, actual knowledge of the interest, whether registered or not, and also wilful ignorance.

A new section 32E (3) is taken from the amended New South Wales act, Mr Speaker. This subsection addresses the situation where this is a chain transaction and the eventual purchaser was acting in bad faith. Under the existing law the eventual purchaser in bad faith will be able to acquire good title to the motor vehicle through a series of transactions. The proposed bill rectifies this anomaly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with detail stage.

Bill agreed to.

Sitting suspended from 12.07 to 2.30 pm

Questions without notice

Nurses pay

MR STANHOPE: My question is to the Minister for Health, Housing and Community Care. In recent weeks the minister has resorted to something of a mantra in relation to his pay offer to Canberra Hospital nurses—that if Calvary Hospital nurses could accept the deal, why couldn't they? Can the minister tell the Assembly whether the deal accepted in a union vote at Calvary Hospital is exactly the same deal offered to nurses at Canberra Hospital? If there are differences, will the minister provide details to the Assembly of what they are and why he continues to insist that the separate offers are the same?

MR MOORE: Mr Speaker, I have never said that the separate offers are the same, but the differences are minor. The most important thing to understand is that the nurses at Calvary Hospital were given the opportunity to go to a ballot, a democratic process.

Mr Stanhope: By whom? Who facilitated that?

MR MOORE: What has happened at the Canberra Hospital is that the nurses union is preventing its own members from going to a ballot and having a democratic vote as to whether this is a good package or not. The part that horrifies me, Mr Speaker, is that Mr Stanhope put out a press release yesterday supporting that. The normal stand of the Labor Party is to support the union and forget about the workers. The union and the workers are supposedly one and the same thing. They are not, Mr Speaker. There is a problem here, and the problem is politics. It is nothing else, Mr Speaker. It is politics that is interfering with this.

Mr Corbell: You are getting a bit heated about this, Mr Moore.

MR MOORE: Shut up.

MR SPEAKER: Order, Mr Corbell!

MR MOORE: Strengthening the nursing work force is a fantastic initiative of the ACT government. This government, in the middle of an EBA, said, "To make sure that our nurses are the nurses who have the highest pay in Australia and remain the highest paid in Australia, apart from the extra superannuation conditions they have that are better than anywhere else in Australia, and better conditions in a whole range of other ways, we are prepared to put in a significant sum of money." In return for that, we are going to ask for some conditions.

Now, this could not be exactly even because the nurses federation has said for many years, certainly since I became minister, "What we want is the same pay and conditions right across the nursing work force in the ACT because we want to have a single agreement." I said, "No, you are not going to get that because that is not government policy."

Mr Quinlan: Why not?

MR MOORE: You can have that as your policy. When we introduced strengthening the work force we said, "What we will do is make a compromise for you. We will get equal pay for you. We are prepared to go for equal pay right across the work force and we will do that by ensuring an 11.7 per cent increase to the nursing work force." Getting that equal pay meant that the increase for Calvary nurses was just a tad higher than the increase for the nurses at the Canberra Hospital. There is the first difference. That, of course, was an important difference. It was what the federation had been asking for—equivalent pay across the system.

We also said, "Look, this is not exactly 12 per cent. It is roughly 12 per cent, but there are ups and downs. We will use 12 per cent as a rule of thumb, if you like." For example, the night shift nurses get an extra 7.5 per cent on top of the 11.7 per cent. So night shift nurses are going to get a significant increase, over 18 per cent. We said there are particular special bonuses for nurses working in areas of special need, and that would take some to 11.7 per cent and well beyond. So, Mr Speaker, there were some differences like that.

There has been a lot of talk recently about the terrible differences in rostering flexibility clauses between the Calvary Hospital and the Canberra Hospital. What we are talking about in terms of rostering flexibility is something that is voluntary. Nobody is going to force this on anybody because it is written in the agreement that nobody will be forced to do this, but it will allow—

Mr Stanhope: It doesn't say that. It says by a majority.

MR MOORE: Yes, Mr Stanhope, it might suit the majority, but sometimes what suits a particular nurse at a particular time, and suits management, may in fact be better for patient health and health care.

Mr Stanhope: Why differentiate between the hospitals?

MR MOORE: It is good for that particular nurse and some other nurses might—

Mr Stanhope: At Canberra, not at Calvary.

MR SPEAKER: I warn you, Mr Stanhope.

MR MOORE: If you really want to know what the majority of nurses think you should let it go to a ballot.

Mr Berry: No, you ask the union.

MR MOORE: Mr Berry interjects, "No, ask the union." We know that not all nurses belong to the union. That upsets Mr Berry. I know that. For all my working life prior to coming into the Assembly I was a member of a union. It did very well by me and I was happy to be a member. In this case the situation is that the union is simply blocking a ballot—a fair electoral opportunity for nurses to have a say about an excellent package.

This would have to be one of the strangest situations in industrial history in Australia. In the middle of an EBA—and this part is strange because we determined to do it—we made an offer. That is a very unusual move. We said, "We make an offer and here it is. The government provides the funds. We will allow you to negotiate in the proper industrial way with the Canberra Hospital or we will allow you to negotiate with the Calvary Hospital." Now, if those hospitals want to put in some extra money out of their own resources and want to do some trade-offs in addition to that, that is up to them. I don't mind that.

Mr Berry: It's not my fault.

MR MOORE: But there are certain things that we want. It is my fault, Mr Berry. I was the one who initiated this. I personally initiated this approach and I am particularly keen on it. Why did I do it? Because I wanted to see the highest paid nurses in Canberra. What I am really disappointed about is that we have a union that thinks that fighting and politics are more important than getting the best possible pay and conditions in Australia for its nurses. That is the disappointing thing.

Both hospitals, in a voluntary agreement between the employer and each employee, have access to shifts of between five to 10 hours in length. That is available in both hospitals. For both hospitals there are voluntary shifts of 11 or 12 hours on additional conditions, that is, the agreement of all of Calvary and in the case of the Canberra Hospital, as a compromise for the union, the majority of the Canberra Hospital staff in the unit. This is subject to five additional administrative arrangements being put in place at the Canberra Hospital. In both hospitals there will be no use of split shifts. At the Canberra Hospital there will be a facility for voluntary shifts of three to five hours. At Calvary there also will be the facility for voluntary shifts of three to five hours, but this requires union agreement as well. At the Canberra Hospital there will be a voluntary facility by agreement between the employer and an employee for make-up time transfer between different shifts.

Mr Speaker, I am happy to table copies of the agreement with Calvary and the proposed agreement with the Canberra Hospital. I will table those now to answer Mr Stanhope's question specifically. I present the following papers:

Nursing—Staff agreements—Copies of:
Comparison of "rostering flexibility" clauses in negotiated agreements to implement the ACT Government's nursing offer.
Variation to the *Calvary Hospital Nursing Services Certified Agreement 2000-2001*.
Variations to The Canberra Hospital Nursing Staff Agreement [Version 4].

By the way, you will find the text almost identical in most respects. It comes back to that fundamental question of industrial democracy. Should all the nurses be able to have a say on this offer or should they not? The reality, Mr Speaker, is that they ought to have a say. When they did have a say at the Calvary Hospital 83 per cent said, "Yes, that is a good offer. Thank you very much. We will take that," and they will be paid from December.

When asked about this matter last week, Mr Speaker, I indicated that we would have to bring this matter to a close on 19 March. Members would be aware, now that they have the draft budget, that we are considering the budget very carefully. If the nurses at Canberra Hospital and in Community Care do not want to accept this package, there is $5.8 million that I can think of very sensible ways to spend in health. Mr Stefaniak has already discussed with me a possibility in education. We would be interested in hearing what other members have to say, but $5.8 million is not something to be sneezed at in next year's budget. At the moment the offer remains there, but it will not be able to remain on the table after 19 March because we will have to look at what else we will do with the money.

MR STANHOPE: I beg your pardon for rising again, Mr Hird. Mr Speaker, I have a supplementary question. I thank the minister for his answer and for tabling the documents. I wonder whether the minister would be prepared to table any documentation—if there is any documentation—relevant to the negotiations with nurses and Community Care to complete the trifecta. Will the minister confirm that the Calvary deal was in fact accepted by nurses after a process of negotiation which was in fact facilitated by the union? Can he say how the offer to Canberra Hospital nurses addresses their intolerable staffing situation?

MR MOORE: Let me start with the last question first. I have to say that what you call the intolerable staffing situation—there are staffing problems in some speciality areas in the Canberra Hospital—is going to get much worse if the nurses do not accept this package. The reason I think it will get worse is because Calvary Hospital will be in a position to attract nurses and to take first choice of whatever nurses are available. That is not what I set out to do. I set out specifically to meet something that I was asked to do by the nurses federation from the time I became minister, and that was to try to get an equal set of pay and conditions across the ACT.

With regard to Community Care, my understanding is that the nurses federation is not prepared to deal with Community Care at this stage. I do not know if they have had any meetings but I will take that part of the question on notice and find that information.

Mr Stanhope, it seems to me that we have a perfectly reasonable offer on the table—the conditions that we have requested as a trade-off for a 12 per cent and sometimes 17 or 18 per cent increase in pay. The very specific answer to the question that Mr Stanhope has asked is that the package also includes significant bonuses in areas of need. The pressure on nurses at the Canberra Hospital is in areas such as the renal unit, intensive

care and emergency. We have said in this package that where there are special pressures we will offer a significant bonus to nurses in that area. Not only that, we have also said that if you are prepared to go and do the study, we will assist you with paying for that study. Then when you come back and work in those specialty areas of need for a year, we will give you a significant extra bonus on top of that.

So the package is about dealing with issues of staffing as well as making sure that nurses in the ACT are the highest paid and are working under the best conditions in Australia so that we can attract other nurses. That is what it is about and it flabbergasts me that the union will not allow it to go the democratic way because I think most nurses would recognise that.

Demountable classrooms

MR HIRD: Mr Speaker, I am delighted to see that there are manners in this place and I thank the Leader of the Opposition for his courtesy. Mr Speaker, my question is to the Minister for Education, Mr Stefaniak. It is a pretty simple question. Minister, what does the government propose to do about the high temperatures in demountable classrooms?

Mr Corbell: Open the windows.

MR STEFANIAK: I thank Mr Hird for the question. Indeed, that response from Mr Corbell was one to the time honoured ways of alleviating some problems.

Mr Corbell: That is what you said last week.

MR STEFANIAK: Unfortunately, that is a fact and I think you will find that that is in government manuals and in school manuals. It is also commonsense. Mr Hird, as you are well aware, the department—

Mr Kaine: Mr Speaker, I take a point of order. Do our standing orders not say that a question may not anticipate a matter that is listed for debate in this house.

Mr Hird: On the notice paper.

Mr Smyth: It is not on the notice paper.

Mr Kaine: There is such as matter, as I understand it, on the notice paper.

MR SPEAKER: I only have today's notice paper—I am sorry.

MR STEFANIAK: Thank you, Mr Speaker. Mr Hird, as you have probably heard, the department is in fact monitoring the situation at some five primary schools to ascertain exactly what the temperatures are. In relation to one of the schools, I am advised that from 30 November 2000 to 23 February 2001—some 28 school days—the number of school days where the temperature was 30 degrees or above at noon was one and the number of days where it was 30 degrees or above at 3 pm was eight.

I was down there at lunchtime and I saw the monitoring device. It has been placed on a blackboard about a third of the way into the second most northern demountable. Also, some more basic thermometers had various readings, depending on where they were placed in the school, and I do not think it is necessary to go into that sort of detail. We intend monitoring until the end of the likely hot period. The temperatures at the schools at the southern end of the valley will be monitored until 12 April. You will have heard, Mr Hird, that I will be seeing on Thursday evening representatives from the school board, the school principal and a couple of people from the department, including an expect in the positioning of the demountables because that might be a factor.

A number of schools in the ACT have taken steps under school-based management to alleviate problems caused by heat. I think we are relatively lucky in Canberra in that this is not the problem that it is in other parts of the country. We have a relatively short summer and I think, on average, over the last three years the temperature has been over 30 degrees on some 14 school days. However, that is obviously not to say that certain schools feel that for them that may be a considerable problem.

As I have pointed out, a number of schools have taken steps under school-based management to alleviate the problem. That basically is what school-based management is all about. I am advised that Hall Primary School, Theodore Primary and Stromlo have taken steps themselves to put airconditioning into transportables and buildings to alleviate heat problems. That is part and parcel of the beauty of school-based management. That is why we have it. I understand that school-based management was started by Mr Wood. I do not want to anticipate debate on Mr Berry's motion but I am interested to see that he is to move a motion that might go completely against something which his colleague Mr Wood started. Mr Hird, a number of schools have already, because they see this as being a priority, taken steps to do that.

I note that there has been a lot of concern from Gordon. I have spoken to parents and they want to see something happen. I, too, would like to see something happen, if that is their wish. Indeed, I think schools have the capacity under school-based management to take steps themselves. That is something I will certainly be talking to the school board chair about. I understand that she said on a radio station how much they have—the department gives them something like over a quarter of a million dollars a year and I think they still have something like over $100,000 in their bank account. It is a matter of working out priorities. I will be interested to see exactly what they will do in relation to this matter. I am aware of a couple of things that have been done over the last two years but I am concerned that there seems to be a full expectation that the department will provide everything. That is not what other schools have done.

I think it is important to make the point that other schools have seen the alleviation of the heat problem as an absolute priority and they have gone ahead and done it under school-based management. What are we meant to do in relation to those schools—give them the money back? That is not what school-based management is all about.

I am concerned to see that those kids have the best possible learning environment and I think some steps have been taken already. If there are some unique features in relation to Gordon Primary that the department should be responsible for then the department will fix that up. That will be the responsibility of the department and it will pay. I certainly want to make that point and I am getting advice on this matter.

As I have said, a number of schools have already made it their priority. So far I am aware of one other complaint from another school in relation to the problem of heat in demountables in summer. However, all the complaints seem to be coming from Gordon. I appreciate that their P&C want the department to pay for everything. But I make the point again that other schools have made this a priority under school-based management. They have taken steps to alleviate it.

I should also say, Mr Hird, that as a result of enhanced school-based management there was some controversy when figures were released last year or the year before. Those figures showed that over a three-year period the amount of disposable funds that schools had effectively rose by about 165 per cent. That has enabled schools to do more things with their money. It has enabled them to have a greater degree of flexibility. So they have that capacity.

I am a bit concerned, too, that all these problems seem to be coming from the one school rather than system wide. If it were a system-wide problem, that might be another thing. Because they are coming from the one school, there may well be—and this is something that I am investigating—some things peculiar to that school which are not the school's responsibility but ours.

I think it has been important to make the point about school-based management. It has worked well for the territory and I have mentioned by way of example a number of schools that have as a matter of priority put airconditioning into their demountables.

Manuka—car parking

MR QUINLAN: My question is to the minister for planning, although the former minister for planning, Mr Humphries, might choose to answer it. I have been furnished with a document which purports to be a letter from the director of Manuka Plaza. It includes the following:

> We now call on the ACT Government to honour its written commitment by immediately imposing car parking restrictions in the vicinity of Manuka including residential streets in accordance with the attached Minute—

which I do not have—

> of the meeting between the then Chief Minister, yourself and the writer dated 29 May 1997.

It concludes:

> ... so that the commercial viability of the section 41 development may proceed in accordance with the representations and agreements made between the ACT Government and the Crown Lessee.

Whichever minister, does your government have a written deal with the developer of the Manuka Plaza to change parking arrangements to force people to use the pay parking in Manuka Plaza?

MR SMYTH: I will take the question. I am the planning minister. We would be delighted to see the letter and the minute. They are not arrangements I am aware of. I am not aware of any such deal.

Mr Humphries: Are you going to table the letter?

MR QUINLAN: It has an ID on it. I will table it later today. I do not want to identify who sent it to me. I think it was faxed to your office.

Mr Moore: Do you want to make something secret?

MR QUINLAN: No. I will table it later today.

Mr Moore: After you remove something? What are you hiding?

MR QUINLAN: The source. I presume, Minister, you are taking the question on notice.

Mr Smyth: I just said that.

MR QUINLAN: Will you include in your response any plans that have already been formulated to change parking arrangements in and around Manuka shopping centre and Manuka Plaza?

MR SMYTH: It is very easy to stand up in this place and read from a document that none of us have access to, or can see, and make claims. I am happy to investigate anything Mr Quinlan is willing to table.

Skate park—West Belconnen

MR RUGENDYKE: My question is to the Minister for Urban Services. I advised Mr Smyth that I would be asking this question so that the relevant information could be sought. Last year a consultant for PALM conducted a community consultation process concerning the Charnwood urban renewal program. I understand that one of the proposals put to government by some in the community was for the provision of a skate park for this part of West Belconnen. Can the minister provide the Assembly with details of exactly what stage this report is at and when the report is expected to be released?

MR SMYTH: I thank Mr Rugendyke for notice that he was going to ask me the question. I understand that the report is now with the chief executive of my department and I will receive it soon. But this is a brilliant opportunity to say that these things could be considered in the context of the draft budget. Mr Rugendyke, as a member of a committee, has the opportunity to input into the draft budget. If he thinks a skateboard park for West Belconnen is a priority, that is something the government would love to see in the report of his committee as part of the draft budget process.

MR RUGENDYKE: I ask a supplementary question. Is the government investigating a skate park proposal? Can the government see merit in the idea, particularly when last week Dunlop was named by the Australian Bureau of Statistics as one of the four fastest growing suburbs in the ACT?

MR SMYTH: There is always merit in providing facilities for the community, and that is why this government over time has built some of the best skateboard parks in the country. We will continue to provide community facilities. Through a balanced budget, you can do that. You can allocate money to providing assets for the community. We call it building social capital, putting in the infrastructure that allows us to return to the community a dividend for the tough years we had to go through to make up for Labor's financial mistakes. Again, this is a matter for the draft budget. We would be very happy to see Mr Rugendyke's proposal from his committee.

Discharge from Belconnen landfill

MR CORBELL: My question is to the Minister for Urban Services also. Following the discharge from retention ponds at the Belconnen landfill into the Murrumbidgee River on Friday, 22 February this year, can the minister say whether any testing of the physical, chemical or biological characteristics of the discharged liquid was undertaken? If so, what were the nature and results of those tests, and will he supply the results to the Assembly?

MR SMYTH: I can provide those details to the Assembly. There are two sorts of ponds at the West Belconnen landfill. One is for the retention of leachate, which is the highly dangerous material that comes out of the landfill. The other ponds collect the cross-ground flow after rain. It is important we do that; otherwise, muddy water flowing in to the Murrumbidgee will have an effect on the river. At West Belconnen we catch that water. It was that water that was released from the ponds. The water that flowed into the Murrumbidgee was cleaner than it would have been had those ponds not been there.

The water is tested prior to discharge to ensure that appropriate standards are met. The results from the release are well within the standards. For suspended solids, the result was 8.4 milligrams per litre, and the standard is under 60. For faecal coliforms measured at CFUs per 100 millilitres, the result was 82. The standard is less than 1,000. For dissolved oxygen, the result was 10.7. The standard is greater than four. Water is discharged from the ponds in case of more rain. It is a good environmental practice. I will make that material available to the Assembly.

MR CORBELL: I thank the minister for the information. I ask a supplementary question. Can the minister say who undertook the tests he has just quoted? Can he indicate to the Assembly whether similar discharges into the Murrumbidgee have occurred over the past year? If they have, how often?

MR SMYTH: I do not have the name of the firm that does the testing, but they are accredited to provide that sort of information. I can get that information for the Assembly. The releases occur four to six times a year, depending on rainfall. The ponds are there so that the water sediment can dissolve without getting into the Murrumbidgee. If the water has to go into the Murrumbidgee, it can, because it is in effect rainwater. When rain is forecast, if necessary, we clear the ponds. This happens four to six times a year.

Medical school

MRS BURKE: My question is to the Minister for Health, Housing and Community Services, Mr Moore. Minister, could you tell me what progress has been made towards establishing a new medical school in Canberra?

MR MOORE: I thank Mrs Burke for the question. I think that it is her first question to me and I appreciate getting it.

At this stage, there is just broad agreement between us and the federal minister, Dr Michael Wooldridge, about a medical school. He has offered 25 rural places for teaching in Canberra. Many of you will be aware that the University of Canberra and the Australian National University are extraordinarily keen to have a medical school and both of them appear to be very keen to do so in their own way.

Dr Wooldridge, through the University of Sydney, commissioned Professor Porter to chair a committee to resolve some of the issues. I have to say that the report of that committee, a copy of which I have provided to Mr Berry and am happy to provide to other people, is somewhat disappointing. It does not give us a particularly good way to move ahead.

Therefore, what we have determined to do is to ensure that we have a good understanding of what we want in a medical school. I will be discussing that with Dr Wooldridge. We also want a much better handle on what the costs are likely to be and we have asked Professor Porter in a personal capacity to do some costings on a medical school, given the extensive experience he has of medical schools.

Having got that information, having understood the money situation, having talked to Dr Wooldridge and having a clear idea ourselves of what we want in a medical school, it will be appropriate for us then to go to a very narrow set of expressions of interest so that we can determine whether there is a university, a combination of universities or a collaborative approach that will deliver for us what we want in terms of having a medical school.

It is my view and the view of this government that it is pointless to have a standard medical school that is the same as any other medical school in Australia. The money associated with that would be better spent in other areas of health. If we want doctors who come out of a conventional medical school, it is far better for us simply to attract them to the ACT, which is not that difficult. If we want to make a broader contribution about the way we think medicine should operate into the future and make sure that we work with the community to understand how it should operate, it is far better to use this kind of approach.

If other members have ideas about how they perceive a medical school should operate, I would be quite happy to meet with them and talk to them about those possibilities before we go to expressions of interest. I would think that the process that we are going into would mean that we should go to expressions of interest at some time in the middle of the year to try to determine what is the most effective way of getting the best possible medical school that looks into the future with doctors who are prepared to work in teams, who understand issues of population health, of epidemiology, and who understand the

other workers around them—the psychologists, the nurses, the social workers; the range of allied health professionals—and can work with them as a team.

I am not talking about the sort of team where a doctor says, "I am the team leader. I say what goes and that is all there is to it." Rather, the team should understand that people with different skills can work together to get the best possible outcomes. First and foremost, we are interested in getting the best health outcomes for the patients. That is what we are interested in and that is why we are using this process.

MRS BURKE: I have a supplementary question, Mr Speaker. What are the benefits to the ACT community and the ACT health system of having such a medical school?

MR MOORE: There is no doubt that having a medical school would provide a great deal of benefit at a range of levels. The first level is in terms of the status of a university. There is no doubt that a medical school adds to the status of a university and the people within the university. There is no doubt that it adds to research. There is no doubt that having a medical school helps to get better health outcomes, as we have seen with the clinical school operating out of the Canberra Hospital. Each of the people working in it, the professors and other staff, is interested in ensuring that the school gets better outcomes by measuring the health outcomes and applying them to their work.

There is a range of issues, but I think that the most important thing still is that a medical school must add to patient care. We must see a significant increase in patient care through having a medical school. There is also the broad issues of community with having a medical school here. It adds to the range of research that goes on in the ACT, remembering that the sort of academic work that goes on here is part of being a clever community that this government is very keen to facilitate and work on. There is no doubt that those less tangible things are there as well and we recognise them as important. But the most important thing is that before we put a significant amount of money into a medical school we would have to be able to see that there was a significant increase in patient care.

Gugan Gulwan Aboriginal Youth Centre

MR WOOD: My question is also to Mr Moore. Minister, in one of the flood of leaks that have characterised the way that the government has brought out the draft budget process, the *Canberra Times* of 14 February reported that the government would fund the relocation of Gugan Gulwan, an Aboriginal youth centre that has been housed in temporary premises in Red Hill—an old preschool—for five years. In view of the pressing need for more suitable premises and a better situation, can you tell us how soon the relocation will occur and whether any potential sites for a permanent home have yet been identified?

MR MOORE: I can say that we are working on a number of sites. We have a favoured site, but that favoured site requires negotiation with other community groups which are currently using it. I will be happy to give Mr Wood a briefing on it but, because of the fact that we are trying to talk to a range of community groups, I would not want to undermine those negotiations. If Mr Wood or any other member is interested in knowing about that on a confidential basis, which would be for a couple of weeks at the most but

probably less than that, probably until the end of this week, I would be quite happy to provide that kind of briefing.

We do take it as very important that Gugan Gulwan can do its work and have an appropriate range of premises. I know that this matter has been raised by a number of members of the Assembly. We were aware of it. We took seriously what was being raised with us and we are in the process of making sure that we can find suitable premises. I have to say that I am quite excited about it. I think that we have found a very good location for Gugan Gulwan, but we will have to work through a series of ramifications of that decision. I will be happy to brief anybody on that should I be asked.

MR WOOD: I have a supplementary question, Mr Speaker. I thank Mr Moore for that change of attitude, because late last year a spokesman for Mr Moore was saying that the location was irrelevant. I take it that you have been talking to Gugan Gulwan about new sites, Mr Moore.

MR MOORE: People from my department have been talking to Gugan Gulwan and we will follow that through and make sure that they do understand which site we are talking about. My understanding is that they are quite excited about the possibility. It is not a fait accompli because we have to go through the rest of the process. I think that will be very effective.

I have to say to Mr Wood that I am not quite sure what he was referring to in talking about a change of heart. I am very pleased to be able to deliver on this matter, but there are times when it is appropriate to recognise, a decision having been made in the past, that new factors can come into it. It is important, therefore, to be prepared to change one's mind. Mr Wood and I have been in this place for a long time and we have both seen changes of heart. It has been very interesting to see the significant change of heart of the Labor Party on planning issues, for example.

Mr Stanhope: Like the independent planner?

MR MOORE: Like 100 per cent betterment, Mr Stanhope, and a whole range of other things. Each of us will recognise that there are times when new information comes in and, if we were to ignore that, we could be as ignorant as Mr Berry.

Insurance levy

MR KAINE: Mr Speaker, my question, through you, is to the Treasurer. I noticed in the *Canberra Times* of the 21st of this month that a well-known government supporter, the chief executive of the ACT Chamber of Commerce and Industry, is pretty unhappy with the emergency services levy on insurance policies. In fact, he is so unhappy about it that he says that scrapping it will be a key goal of his new term as chief executive. He says:

> The elimination of the ACT's fire services levy will be one of the key aims of the ACT Chamber of Commerce and Industry ...

It was an interesting statement, because on the very same day the Treasurer put out a media release in which he affirmed what he had already said in May of last year—that this levy would be scrapped from 1 July this year. For this statement to have appeared in

the *Canberra Times* of 21 February, he must have known the day before what the Chief Minister and Treasurer was going to say the next day when he put our his media release. Otherwise, there is a strange coincidence. If he did not have prior knowledge, would the Treasurer indicate whether or not Mr Peters knows something the rest of us do not know, and has the Treasurer abandoned the notion of scrapping this iniquitous tax, with effect from 1 July this year?

MR HUMPHRIES: I thank Mr Kaine for the question. Does Mr Peters know something the rest of us do not know? I would say it is more likely that Mr Peters does not know something that everybody else does know—namely, that the government announced a year ago in its budget for this financial year that it was going to abolish the insurance levy. What Mr Kaine describes as a coincidence is in fact cause and effect. Mr Peters put his comments in the *Canberra Times* on the day concerned, 21 February, and I immediately put out a press release to disabuse him of his view that there was any doubt about the status of the insurance levy as from 1 July this year.

I do not think there is a conspiracy here. Mr Kaine forgets the old adage that if it is the choice between a conspiracy and a stuff-up go for the stuff-up every time. I think Mr Peters neglected to look back over his no doubt very elaborate files to see what the government had said about this matter. It is therefore very pleasing for me to be able to reaffirm today in the Assembly that the insurance levy will go from 1 July. Indeed, I expect very soon to be introducing legislation that will achieve just that.

MR KAINE: I have a supplementary question, Mr Speaker. I am pleased to hear the Treasurer affirm that Mr Peters does not know what the rest of us do know and that it is not the other way round. Will the Treasurer confirm that his draft budget, which we currently have for discussion, has a reduction on the bottom line of revenue of $10 million, which is approximately the revenue that was being gained from this source and will be clearly identified as a reduction in the revenue from this source?

MR HUMPHRIES: The forward estimates have been adjusted to remove the revenue from the levy as from 1 July, so there will be no revenue from that date from the insurance levy. The $10 million that you might be referring to is the $10 million that the government has indicated it wishes to return in the way of reduced taxation to the ACT community, and that is another matter altogether. It is the government's intention that, with a surplus, there ought to be the capacity for the ACT community to share in the benefits of that surplus.

I am very pleased that we have reduced the surplus. We believe that it is appropriate to spend most of the surplus on additional services to the ACT community, but we also believe that it is worth returning some of that surplus to the ACT community directly in the way of reduced taxation. I note that Mr Quinlan thought that it was not enough to return just $10 million. Presumably, he will indicate in the course of the coming election campaign how much more the Labor Party would be returning to people in the way of reduced taxation. I look forward to that announcement.

Our position is very clear. We have put it on the table. We have indicated where we are coming from on this matter. I look forward to other members of the Assembly being able to match or improve on the offers that the government has made to the community of the territory.

Burglaries

MR HARGREAVES: My question is to the Minister for police. Minister, according to your statement in the *Valley View* on the burglary rate across Canberra and criticising the use of the Productivity Commission's figures, you said that you had updated figures and that they were encouraging. You said that there was a 19 per cent reduction in burglary. Yet, if there were 8,678 burglaries in 1999-2000 and there have been 4,848 so far this financial year, there would appear to be not a 19 per cent reduction but an increase of 11 per cent on a pro rata basis. Figures released by the Acting Chief Police Officer for the ACT show that the burglary rate for the year so far does, in fact, exceed the totals for both 1996-97 and 1997-98. Minister, why have you been misleading the ACT public over the burglary statistics?

MR SMYTH: Mr Speaker, based on information provided by the police, and it is the same information that I used in this place in the first sitting week of the year, the trend data would indicate that there is a 19 per cent reduction in burglaries and a 32 per cent reduction in motor theft offences that will be achieved over the financial year 2000-2001. We stand by those figures. The Acting Chief Police Officer for the ACT, Ben McDevitt, said in his press conference yesterday that they believed the 19 per cent may well become 20 per cent. They have put in place a series of programs, starting with Operation Anchorage, to make sure that the trend is met.

MR HARGREAVES: I have a supplementary question, Mr Speaker. Minister, what was the truthful effect of the work of the last strike force into burglaries? What sort of target is a 20 per cent reduction? Is this an admission of defeat on your part and a recognition that your government has lost the plot as far as community safety is concerned?

MR SMYTH: Mr Speaker, this government has not lost the plot on community safety. This is the government that put forward $4.2 million to fund Task Force Dilute and Task Force Handbrake in this year's budget to look at these problems in the community. The effect of Dilute was to reduce the number of burglaries in the period that it operated. With the confidence of the success of Dilute, the police tell me that they believe 20 per cent is the achievable reduction in the number of burglaries this financial year as against the number of burglaries that occurred last year.

This does raise the question. I think Mr Humphries, the Chief Minister, caught Mr Stanhope out on the radio. Mr Stanhope very quickly backed out on a bidding war and the extra police numbers, because Labor can't tell us where they will get the money from. They refuse to release any targets and they refuse to tell anyone how they will fund these activities.

Canberra Tourism and Events Corporation—relocation

MS TUCKER: My question is to the Minister for Business, Tourism and the Arts. Minister, it has been reported in the media that the Canberra Tourism and Events Corporation is to relocate to Canberra Airport's Brindabella Park. The government has a stated intention to revitalise Civic, yet CTEC is moving to a small industrial park some distance from the commercial and public centre of town. Given that there is no public transport to the airport, that two of the major participatory events run by the

corporation—the National Multicultural Festival and Floriade—are based in or around the city and that both these events incorporate members of small organisations, artists and community groups who may find the time and the expense of regular meetings at the airport difficult, how does this meet the interests of small organisations such as arts, community and cultural groups and so assist in the further development of the festival and Floriade?

MR SMYTH: Mr Speaker, the Canberra Tourism and Events Corporation will move to their new premises when their current lease expires in April 2001. The relocation was necessary due to the need for additional office space.

A comprehensive tender and evaluation process was commenced in May last year. Recommendations from a property consultant concluded there were five properties that were suitable out of the 23 that had expressed interest. The short list was then evaluated and the property at the new facility at the airport was chosen as the one that met the need of CTEC.

MS TUCKER: I have a supplementary question. That question was not answered. The managing director of Canberra International Airport is on the board of CTEC, as you know. Given that this move gives the impression that CTEC is favouring the airport, can you explain why CTEC made this decision? You did not do that then. I would like to see the criteria that were used to determine that the airport was, in fact, the preferable site, particularly in light of the questions that I asked initially. If you don't know that, can you find out and please bring it back to the Assembly?

MR SMYTH: Mr Speaker, CTEC, the Canberra Tourism and Events Corporation, is a corporation established in its own right. The CTEC board set up a subcommittee to examine all aspects of the tender, and that included things like financial considerations. As well, the views of staff and management were sought through the process. The subcommittee then assessed what was put to them by the consultant and concluded that the best venue, the best option for them, was to go to Brindabella Park at the airport.

It is curious that we do have competing interests. Yes, the government is committed to making sure that Civic remains viable. At the same time, that is not to the detriment of the town centres or a developing area like the airport. The international airport is a very important feature, and will be a very important part, of the tourism future of this city, and it is worthy of government support.

The CTEC board has made this decision. I believe they have gone through a proper process, and CTEC will move to the airport in April this year.

School rooms—cooling

MR BERRY: Mr Speaker, my question is the Minister for Education. My question comes in the wake of much meandering and waffling, and twisting and turning, about who should be supplying infrastructure in which our children are educated. It comes also in the wake of the minister's very thin attempts to ditch responsibility for the provision of infrastructure which it provides for a safe place for children to be educated in. It also comes in the wake of this minister's attempt to shift the responsibility for the failure of the government to provide adequate cooling in schools to the schools themselves.

Mr Speaker, it also comes in the wake of the government declaring that it was going to cost $2 million to aircondition all of these portables. On the basis of the government's claim that there were 90 such portables, for each of these units to go into each of these portables it would cost $22,000. It also comes in the wake of the easy calculation that, in the case of Gordon, for example, the cost of providing airconditioning would be more than the school's annual budget to deal with these sorts of issues.

MR SPEAKER: This is a pretty long preamble.

Mr Humphries: Is there a question here, Mr Speaker?

Mr Moore: And 117 (h), Mr Speaker.

MR BERRY: If they want to raise points of order, they might consider raising a point of order about the lengthy and drawn-out answers they give and apply to us the same time limits they apply to themselves and are prepared to give to themselves. Let us do away with the hypocrisy.

This minister has failed to convince the community that the government ought not be responsible for the sort of infrastructure that provides safety for our schools. Why is it, minister, that you accept the responsibility of providing heating in government schools—or perhaps you are thinking of ditching that heating infrastructure in our schools? Will the minister entertain this Assembly with an explanation of why he won't accept the responsibility for cooling but he will accept the responsibility for heating?

MR STEFANIAK: Mr Speaker, I think the answer is fairly simple. The schools actually do pay the heating bills. The rest of the question which Mr Berry asked, I think, has been covered in my answer to Mr Hird.

Mr Moore: 117 (h).

MR STEFANIAK: 117 (h) on that one.

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

Project Saul
Broadband services
TransACT

Mr Humphries presented the following papers:

> Project Saul—Answer to question without notice asked of Mr Humphries by Mr Rugendyke and taken on notice on 15 February 2001.
>
> Telstra's pricing regime for supply of broadband services via ADSL technology—Answer to question without notice asked of Mr Humphries by Mr Stanhope (Leader of the Opposition) and taken on notice on 15 February 2001.
>
> ACTEW's investment in TransACT—Answer to question without notice asked of Mr Humphries by Mr Osborne and taken on notice on 14 February 2001.

Leave of absence to member

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

That leave of absence for today, 27 February 2001, be given to Mr Osborne.

Questions without notice
Yurauna Centre

MR STEFANIAK: Mr Speaker, on 14 February Mr Berry asked me a question in relation to Yurauna Centre funding for CIT. I received some correspondence in relation to a reduction of funding on 31 January this year. The Yurauna Centre provides academic and personal support to CIT indigenous Australian students through a funding agreement with DETYA's indigenous education strategic initiatives program. Additional funding for the centre is provided by CIT and through grants by other bodies.

The reduction in federal funding referred to by Mr Berry relates to DETYA's move to reduce funds from $165,732 in 2000 to $124,760 in 2001. Funding of this type is not static and it changes annually. DETYA funds were divided into transitional programs assistance and supplementary recurrent assistance categories for the period between 1997 to 2000. The transitional program assistance funds, which finished in 2000, have been reallocated by DETYA to the national indigenous English language and numeracy strategy. The CIT has been notified that a successful bid for this strategy has resulted in funding of $241,571 over three years, with the first allocation of $81,760 for the CIT this year. CIT expects to employ an indigenous teacher as a key action for this strategy. The position will be advertised shortly.

Total funding for the Yurauna Centre in 2001 is expected to be in excess of $309,587. That, I am advised, Mr Speaker, is $86,915 more than what was allocated in 2000. The additional funding for the centre in 2001 is made up of increases in the CIT's budget allocation to the Yurauna Centre, an increase in CIT profile funds, and funding provided through OTAE, Healthpact and adult community education grants.

The Yurauna Centre will continue to provide significant personal, cultural and academic support to its students and will increase its access for the most disadvantaged indigenous Australian students.

Manuka—car parking
Papers and statement by member

MR QUINLAN: Mr Speaker, I seek leave to present a number of papers and make a short statement.

Leave granted.

MR QUINLAN: Mr Speaker, I present the following papers:

Manuka business centre—Car parking restrictions—Copies of:

Letter from General Manager, Dick Smith Investments Pty Ltd & Associated Companies, dated 19 February 2001 to Mr Brendan Smyth, MLA.

Extract of letter from Director, Manuka Plaza Nominees Pty Ltd to Mr Brendan Smyth, MLA.

Fax from Chairman, Manuka Business Association, dated 15 February 2000 to Mr Brendan Smyth MLA

The fax from the Manuka Business Association to the minister, Mr Brendan Smyth, dated 15 February, is relevant to the matter he knows nothing about.

Mr Smyth: No, I didn't say that.

MR QUINLAN: I beg your pardon.

Mr Smyth: I said I didn't recognise the letter.

MR QUINLAN: You left this house with the impression you knew nothing of this matter, mate. I do not care what words you used—that is impression you wanted this place to take.

Mr Humphries: Mr Speaker, on a point of order: ministers might take a question on notice because they are not sure of the detail which they need to clarify so they do not mislead the house. So it is unfair of Mr Quinlan to suggest that Mr Smyth might deliberately mislead the house if he refrains from providing information he is not entirely sure about.

MR SPEAKER: I uphold the point. Mr Quinlan, you asked for leave to make a short statement, not to get into an argument. Can we have the short statement, please?

MR QUINLAN: Certainly, Mr Speaker. I have also presented a copy of a letter from Dick Smith Investments Pty Ltd, the owners of the premises in which Woolworths Manuka operate, dated 19 February, written to the minister, Mr Brendan Smyth, in respect of the same matter he knows nothing about. Thank you, Mr Speaker.

Mr Moore: On a point of order, Mr Speaker: Mr Humphries took a point of order which you upheld. Mr Quinlan now repeats the notion that this is something about which the minister knows nothing. It is very clear that there was a flurry of letters and the minister did not know which one you were referring to. That has been verified by the fact that Mr Quinlan suddenly tables a range of letters.

MR SPEAKER: I think the point has been made. There is no point of order.

Mr Quinlan: Well, can I take a point of order, Mr Speaker. I might suggest that the minister should seek leave himself to make a statement now that he has the papers in front of him.

MR SPEAKER: Order! There is no point of order there either.

Mr Smyth: Mr Speaker, I still do not have the letters before me. Until I see the letters that they want comments on I will not comment. I am not sure what paragraph they are using or what they are referring to.

Questions without notice
Discharge from Belconnen landfill

MR SMYTH: Mr Corbell asked a question about the testing that was done on water released from holding ponds. The work was done by Ecowise Environmental, which is a National Association of Testing Authorities regulated laboratory. NATA sets the standards by which most Australian laboratories operate.

Deakin oval
Statement by minister

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): Mr Speaker, last week Ms Tucker asked whether a recommendation of the conservator was sought regarding the direct sale of block 16, section 36 Deakin, as required under section 209 of the act. I am pleased to be able to table the recommendation supporting the re-grant of the lease for the oval, and in doing so would like to explain why this recommendation was received only recently. Given the interest of most members of the Assembly in this matter, I would like to make a full explanation of the circumstances in which this occurred. I therefore ask for leave to make a statement.

Leave granted.

MR SMYTH: The negotiations on the redevelopment of the land leased by the Croatia Deakin Football Club commenced in 1998 and involved extensive consultations with members of the community, the Burley Griffin Local Area Planning and Advisory Committee, other government agencies and members of the Assembly, including Ms Tucker.

The details of the proposal were: construction of a new oval with lighting adjacent to the existing car park for use by soccer teams across Canberra; direct sales of the land for section 33 and part block 5, section 36, to the club for the development of 52 dwellings; release of part of the club's lease back for public open space; development of that open space at the club's expense; improved pedestrian and bicycle access, the creation of a larger public precinct around the Deakin anticline and the provision of overflow car parking facilities for use by the customers of the Deakin shops.

When the club had fully developed its proposal, the Treasurer wrote on 22 July 1999 to all members of the Assembly supporting the proposal in principle and outlining the proposed lease variation which would enable the club to retain part of the land for an oval. Members were also offered individual briefings on all issues relating to the future use of the block.

At this time departmental officers were preparing the lease variation to achieve those desired outcomes. It was proposed that the land be subdivided, with one part being surrendered to the territory to become urban open space. The work continued, on the

assumption that the delivery mechanism would be via a lease variation, until early 2000 when the Labor Party indicated that it could not support the proposal unless the change of use charge was increased from 75 to 100 per cent.

Mr Speaker, in order to achieve the high public and environmental benefit available from the gift of the land back as urban open space, the government agreed with a proposition put forward by the Labor Party. The only way to achieve this was to change from lease variation to total surrender of the club's land and then re-granting the other two parts. The surrender of the whole site and the grant of the lease for the oval took place at the same time on 15 September 2000. I believe all the stakeholders, including the Croatia Deakin Soccer Club, the local community and Assembly members, clearly understood that the end point of the process was to have the lessee of the oval as the club.

The government, through Urban Services, issues a large number of leases every year using a checklist procedure to ensure all process issues are identified and met. In this case, however, because of the unique circumstances, the conservator's recommendation was not sought at the appropriate point in the process. I say "unique" because the surrender of the total lease by the club and the grant of a new lease over part of the land back to the club for the same purposes had never occurred previously.

Neither the consultant nor the departmental officers identified the need to formally obtain the written consent from the conservator. Whilst this can be partly excused on the ground that the land did not in reality change ownership or use, I in no way condone the breach of the requirements of the act. I have therefore asked that the procedures used for the grant of the lease be applied in all cases to make sure that this does not occur again.

Mr Speaker, I am pleased to advise that the lease is not invalidated by the delay in obtaining the conservator's recommendation. This project is unique in that I think it has the support of both sides of the Assembly. I believe that this is largely due to benefits which flow both to the Deakin residents and the Canberra community as a whole. We take the opportunity to thank Ms Tucker for raising the matter and I will now table the conservator's recommendation.

Papers

Mr Speaker presented the following papers:

> Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—Authority to broadcast proceedings in relation to:
>
> A public hearing of the Standing Committee on Justice and Community Safety for its inquiry on 20 February 2001 into the Defamation Bill 1999, dated 19 February 2001.
>
> Public hearings of the Standing Committee on Planning and Urban Services for its inquiries into:
>
> 2001-02 Draft Budget on 16 and 19 March 2001.
>
> Proposed South Bruce Development on 30 March 2001.
>
> Turner, section 47 on 6 April 2001.
>
> Public hearing of the Standing Committee on Justice and Community Safety for its inquiry on 9 and 14 March 2001 into the 2001-02 Draft Budget.

> Public hearing of the Standing Committee on Education, Community Services and Recreation on 5 and 15 March 2001 for its inquiry into the 2001-02 Draft Budget—
> dated 26 February 2001.

Planning and Urban Services—Standing Committee
Report No 57—government response

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.37): Mr Speaker, for the information of members, I present the following paper:

> Planning and Urban Services—Standing Committee—Report No 57—Proposals for the establishment of rural residential development as a land use *(presented 28 November 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, it is with pleasure that I table today the government's response to the Planning and Urban Services Committee inquiry into the proposals for the establishment of rural residential development as a land use.

The government's vision for Canberra is of a dynamic, diverse and sustainable community and economy. Rural residential development is part of that vision. Contemporary society expects a range of housing choices close to jobs, facilities and services. In recent years the government has extended options for urban living through facilitating inner city apartment development. The other end of the spectrum, rural residential development, has not been available until now. The introduction of rural residential development will provide an important new opportunity to demonstrate the ACT's capacity and commitment to innovation, leadership, planning, development and environmental management.

Mr Speaker, the committee made two recommendations: firstly, the preparation of the Hall master plan; and, secondly, the preparation of a draft variation to the Territory Plan to introduce a new land use policy providing for rural residential development. The government supports the committee's recommendations and is keen to implement them.

The village of Hall is recognised as having a unique role in the ACT as a rural village. It provides a contrast to the more recent suburban developments associated with the creation of the nation's capital. The future planning for Hall will enhance its role as a rural village and this includes the definition of a suitable buffer area to the Kinlyside valley.

Mr Speaker, the recommendation for finalising the Hall master plan is strongly supported. In fact, Planning and Land Management is currently finalising the draft Hall master plan. This process will capture the results of the ACT Heritage Council's current consideration of a nomination for the village of Hall and district to the ACT Heritage Places Register. I will ensure that the final master plan is consistent with the Heritage Council's work.

Resolution of the buffer is being determined through consideration of the physical characteristics of the area, heritage work and community consultation undertaken to date. It is expected that the draft master plan will be released for formal public consultation shortly. After the consideration of any comments received, I will adopt the final master plan as under the standard master planning process.

Mr Speaker, a draft variation to the Territory Plan will then be presented to implement some of the Hall master plan, particularly the expansion of the buffer between the village of Hall and Kinlyside, as any rural residential development in the ACT would only proceed on the basis of high-quality development which is environmentally, socially, culturally and economically sustainable.

A rural residential development policy must implement the highest objectives for achieving sustainable, innovative and quality-designed solutions. High-quality blocks with high levels of servicing providing for the upper-end niche market is what is being discussed here. This is unlikely to compete with our regional neighbours.

Mr Speaker, the government will now proceed with the preparation of a draft variation to the Territory Plan to introduce a new land use policy for rural residential development. The preparation of a draft variation would involve the extensive development of policies and management approaches. It would also follow a statutory community consultation process.

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

Report No 58—government response

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.41): Mr Speaker, for the information of members, I present the following paper:

> Planning and Urban Services—Standing Committee—Report No 58—Monitoring the implementation of Variation No 64 to the Territory Plan: Latham Shops *(presented 28 November 2000)*—Government response

I move:

> That the Assembly takes note of the paper.

Mr Speaker, I table the government's response to the Planning and Urban Services Committee report on the redevelopment of the Latham local shops. The government agrees in principle with the recommendations of the committee. Latham and other local centres are a valuable part of the community's social infrastructure.

Age structure changes, increased female participation in the workforce and longer trading hours at both group and town centres have led to a decline in the trading position of many local centres. The government is assisting centres to respond to changed circumstances through initiatives such as precinct management, help shop assistance, widening the uses permissible at local centres, providing incentives to encourage the

redevelopment of unviable centres, and the commencement of master plans at several struggling local centres.

The government would like to thank the committee for its report and looks forward to the successful redevelopment of the Latham local centre in accordance with the committee's recommendations.

Question resolved in the affirmative.

Papers

Mr Smyth presented the following papers:

Canberra Tourism and Events Corporation Act, pursuant to subsection 28 (3)—Canberra Tourism and Events Corporation —Quarterly reports for:
July to September 2000.
October to December 2000.

Block 2, section 33 Deakin—Copy of Recommendation from the Conservator, pursuant to section 209 of the *Land (Planning and Environment) Act 1991*, to issue a lease to Croatia Deakin Football Club Incorporated for the purpose of an outdoor recreation facility, dated 19 February 2001.

Mr Moore presented the following papers:

Agents Act—Declaration—Qualification for travel agent—Instrument No 9 of 2001 (No 7, dated 15 February 2001).
Building Act—Revocation and adoption of the Building Code and the Australian Capital Territory Appendix—Instrument No 379 of 2000 (No 2, dated 11 January 2001).
Children and Young People Act—Appointments to the Childrens Services Council—
Chairperson—Instrument No 11 of 2001 (No 7, dated 15 February 2001).
Members—Instruments Nos 12 to 16 (inclusive) (No 7, dated 15 February 2001).
Construction Practitioners Registration Act—Construction Practitioners Registration Regulations Amendment—Subordinate Law 2001 No 4 (No 7, dated 15 February 2001).
Construction Practitioners Registration Amendment Act 2000—Notice of commencement (15 February 2001) of remaining provisions (No 7, dated 15 February 2001).
Dog Control Act—Determination of fees—Instrument No 19 of 2001 (No 8, dated 22 February 2001).
Health and Community Care Services Act—Appointments to the Health and Community Care Service Board—Chair and Member—Instrument No 10 of 2001 (No 7, dated 15 February 2001).
Public Place Names Act—Determination of street nomenclature—Condor—Instrument No 17 of 2001 (No 7, dated 15 February 2001).
Territory Superannuation Provision Protection Act—Authorisation—Instrument No 18 of 2001 (S5, dated 13 February 2001).
Vocational Education and Training Act—Determination of fees—Instrument No 20 of 2001 (No 8, dated 15 February 2001).

Adjournment

Motion (by **Mr Moore**) proposed.

That the Assembly do now adjourn.

Pensioner concession cards
Barrington Gardens—pedestrian access
Lewis Luxton Crescent—bus shelter

MR HARGREAVES (3.44): Mr Speaker, I rise in the adjournment debate to express my concern about lack of some services for older people in the electorate of Brindabella and across Canberra generally. I think the services for older people have been delivered dreadfully by the Minister for Urban Services and the government, and I wish to give three examples of that.

The first one is the refusal of the government to allow pensioners to use their concession cards for bus travel in peak hours. We all know that older people cannot demand medical and other appointments outside peak hours, and there is a very good chance that at least one of the journeys will be in the peak time. I have had many constituents complain to me that they are being discriminated against on the basis of their holding an age pension concession. I cannot see for the life of me, on my observation of the capacity of buses during peak hours, that the use of concession cards would be any drain at all on the government's coffers.

Mr Speaker, in August of 1999 I asked the minister to provide a safe pedestrian access from Barrington Gardens, an estate for older people, to the Lanyon marketplace. The minister's response was to insist that elderly people using walking frames negotiate steep inclines and use underpasses. He forgets that these inclines are impossible to negotiate for people with walking frames or people who are frail and he forgets that they will not use underpasses. They try to cross flat sections of roads and take a risk with the traffic. The minister said he wished to encourage the use of underpasses. A lady whom I visited in Barrington Gardens was incapable doing that. She has been abandoned by this minister.

In December of 1999 I asked the minister to consider the provision of a bus shelter in Lewis Luxton Crescent, also near Barrington Gardens, for the use of people in that old persons estate. The minister conducted a survey over two days in respect of the needs of these older people. What has been done is deplorable. The minister wrote back to me on 10 December 1999—and I intend to table these documents, Mr Speaker—

Mr Smyth: 1999?

MR HARGREAVES: December 1999. The minister has a memory lapse and the reason for that will become obvious. He said that the survey results do not justify a shelter at this bus stop but that he is aware that the stop is frequented by a number of elderly people and, on that basis, "I am prepared to place this request for a shelter on the priority list for inclusion". He said:

> The Department of Urban Services will arrange for a concrete shelter to be relocated in Lewis Luxton Crescent.

It has not arrived, Mr Speaker—12 months after the promised date, it has not arrived. I believe that this shows that this minister does not really care about the plight of older people. I seek leave to table two documents, Mr Speaker.

Leave granted.

MR HARGREAVES: I present the following papers:

> Bus shelter—Barrington Gardens, Gordon—Copies of:
>
> Letter from Minister for Urban Services, dated 10 December 1999 to Mr John Hargreaves, MLA.
> Survey for Bus Shelter and recommendations, dated 28 aand 29 July 1999.

Mr Smyth: It must be election time again.

MR HARGREAVES: It is not election mode. I am just getting sick of waiting. Thank you very much Mr Speaker.

Canberra Tourism and Events Corporation—relocation

MR BERRY (3.47): Mr Speaker, I rise to express a strong element of surprise about the decision by CTEC to move to the Canberra Airport, which was exposed as a result of a question asked earlier by Ms Tucker. I must say that, for the life of me, I cannot understand how CTEC will benefit from being at Canberra Airport. Does this mean that they will be able to meet and greet all the people that come through the airport? Is that their prime role in this?

Ms Tucker: Show them the billboards.

MR BERRY: Yes, they could show them the billboards at Canberra Airport. Mr Speaker, how is it that an organisation which owes so much to the tourism industry in the ACT would be better situated outside of the CBD? It strikes me as quite odd that this decision has been made. I look forward to seeing all the details about this. I look forward to seeing the government trying to justify this decision in respect of its value for money and its contribution to a better outcome for the tourism and events industry in the ACT.

I wonder whether the staff are that happy about having to travel all that extra distance to Canberra Airport as a result of this decision. I guess that none of them will complain—they might not have to make the trip to Canberra Airport if they were to offend the government, because that seems to be a pattern that is emerging in relation to this organisation.

Mr Speaker, at this stage there does not seem to be any rhyme or reason for this other than to fill a building at Canberra Airport. I cannot see at this stage the beneficial outcomes for tourism and events in the ACT. I look forward to the day when the government will try to attempt to convince us that it was a good move by CTEC. I think it will be a difficult battle for them.

Question resolved in the affirmative.

Assembly adjourned at 3.50 pm

Schedule 1

LAW REFORM (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 2000

Amendments circulated by Attorney-General

1
Clause 4
Proposed new subsection 15 (6)
Page 3, line 17—

Omit "10 May 1991", substitute "6 December 1991".

2
Schedule 2
Amendment 2.12
Proposed new subsection 11 (2)
Page 11, line 25—

Omit "10 May 1991", substitute "6 December 1991".