DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

7 August 2001

Tuesday, 7 August 2001

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Petitions

Cigarettes

The following petition was lodged for presentation, by **Mr Rugendyke,** *from 19 residents:*

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
> - minors including children are obtaining cigarettes from vending machines; and
> - following deregulation of business trading hours, adult smokers cannot claim they are reliant on access to tobacco products through vending machines.
>
> Your petitioners therefore request the Assembly to strengthen its commitment to stopping young people from becoming addicted to nicotine by immediately passing legislation prohibiting the sale of cigarettes and other tobacco products through vending machines.

Nicholls shopping centre

The following petition was lodged for presentation, by **Mr Corbell**, *from 171 residents:*

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the large and almost wholly developed suburb of Nicholls has no local shopping centre, despite land initially being allocated and released for that purpose.
>
> Your petitioners therefore request that the Assembly as an urgent priority, re-release the land for immediate leasing, development and building of a local shopping centre in the suburb of Nicholls.

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

Education, Community Services and Recreation—Standing Committee
Report No 9

MS TUCKER (10.34): I present the following report:

> Education, Community Services and Recreation—Standing Committee—Report No 9—Adolescents and young adults at risk of not achieving satisfactory education and training outcomes, dated 17 July 2001, together with a copy of the extracts of the minutes of proceedings.

This report was authorised for publication by the Speaker on 26 July 2001. I move:

> That the report be noted.

This inquiry has taken quite a lot of time of the Standing Committee on Education, Community Services and Recreation. It was a very important inquiry. It followed an inquiry of the previous Assembly by the Social Policy Committee which I chaired which looked at general services for children at risk in the community.

In that inquiry it became clear that education and schools were very critical in terms of there being an opportunity to identify children who are at risk and to put into place support services of various kinds. Once a child has dropped out of the school system it is much more difficult for them to be picked up until the situation has become very serious. In fact, it may be the case that it is only when they come into contact with juvenile justice or perhaps with serious substance abuse issues that they will then become noticed again. For that reason school and educational programs are obviously very important opportunities to identify these children and try in some way to support them so that they can become constructive participating citizens of our community.

I will briefly summarise the recommendations which the committee put into the report. The first recommendation relates to curriculum development and we ask that curriculum development be reviewed and evaluated in terms of its flexibility and appropriateness for the varying needs of students. That is because we can see clearly that for the school experience to be positive for a child or a student or a young person they have to feel that the curriculum is relevant for them and that it has meaning. For that reason it is critically important that we ensure that the curriculum addresses that aspect of relevance.

We have made recommendations regarding the need to acknowledge that high schools are particularly problematic. Young people are going through adolescence, puberty and hormonal changes, which can be issues in themselves, without being multiplied by other issues if the child is feeling they have low self-esteem because of the fact that the school environment is not safe or not respectful or supportive or the curriculum is not relevant.

We also acknowledge the fact that because of the federal government's approach to government benefits and the common youth allowance, the nature of students in colleges now has changed to some degree, because basically they are there and they

would not have been there before the common youth allowance system came into play. That needs to be acknowledged in terms of how colleges are managing their students.

We have recommendations related to discriminations in schools. There were witnesses who spoke of discrimination on the basis of race, the indigenous community and other communities. Discrimination on the grounds of sexuality also came out. So there are challenges there for the school community. Clearly, the schools cannot be asked to change the world. What happens in our schools is a reflection of the broader community. However, once again the committee saw it as an opportunity to work in a creative and positive way with these social issues, because if we can address them in schools we might be able to break the cycle a bit in terms of what children leave school with in terms of attitudes and approaches to people who are different in any way.

The question of how we accept difference in our society came up not only in terms of race and sexuality. It came up also for a large group of children who for different reasons are different. There are a lot of children in our school system who are carers for someone they love who is sick or has some kind of issue. Those children have huge adult responsibilities. They are not necessarily going to identify to the schools as having those responsibilities because they do feel concerned that they would therefore look different and that that is not going to work in their peer group. That was another group that came out.

Children who are in foster families obviously have special issues. Schools need to be able to support those families as well. Issues of substance abuse also came up in the committee, as did the question of how well we are supporting families who have a member of that family with a mental illness. Whether it is the student or it is a family member also came up in the inquiry.

We made recommendations regarding behaviour management. We have asked that there be a close look at the effectiveness of suspension and exclusion as a behaviour management tool. The committee is concerned about the rates of suspensions and exclusion still in our public system. We also ask that there be a review of the alternative programs that exist in Canberra at the moment. There needs to be a policy framework developed for alternative programs before we establish any new alternative programs.

There needs to be a serious commitment to progressing the recommendations of the reviews that have occurred of existing programs such as DCAP because there are some really serious issues in those programs relating to staffing. Once again this committee made a recommendation about the need for collaborative inter-agency approaches. That has come up, I think, in just about every committee I have chaired or worked in in terms of social services. It is obviously a challenge for governments around Australia, not just the ACT. It is a challenge that has to be taken on very seriously because it is critical to ensuring that the services that we have are effectively used. I note that there is even a proposal for a referendum on the question of seamless services. I would see it as a fundamental responsibility to be committed to ensuring services were as seamless as possible, so the committee has recommended that.

There are also recommendations regarding the need to adequately resource and fund services required following the completion of the framework for students at risk and the assessment of need. So there is a recommendation there about the importance of properly funding what comes out of the work that this committee is recommending be done.

We have also once again raised the question of counsellors and welfare support in schools, and the importance of providing that support in a flexible way. There are not enough counsellors in the system for students at our schools. That has come up in several inquiries that we have had in this place over the last five or six years.

There is also a need to have counselling support which is separate from the school counselling system. There were some issues brought to the attention of the committee in terms of confidentiality concerns. There is a lot of communication going on within a school community, which of course is good to some extent. However, it is not good if it means that the student cannot feel comfortable about disclosing very personal information to a counsellor for fear of that information moving through the more general school staff. So there is a really important need to have other ways of accessing welfare and counselling support.

We have also raised the question of poverty. We want to see that acknowledged as quite a serious issue for students who are experiencing poverty. It will have considerable impact on their ability to be successful in the school system. That has to be looked at quite clearly and identified as a problem and an indicator for students at risk of not completing school.

The question of home/school communication also came up once again. While we were looking particularly at adolescents and young adults at risk of not achieving satisfactory education, the committee heard very strong evidence, as is always the case when you look at these issues, that we should be identifying these children before they get to the point of being adolescents or young adults. The intervention or prevention is going to be most effective at the youngest age possible, and we need to be getting in and supporting families from early on. We have commented on that in this report, even though we have particularly focused on responses for the students at risk at a later stage of their schooling. The relationship between home and school is very critical at whatever age the student is.

We have also made a recommendation regarding the need to have a comprehensive look at substance abuse issues. We have asked that a drug and alcohol task force be set up. That is a recommendation which reflects a broader concern in the community that has come up in other forums, but in this committee it was raised as an issue; that the young people who are abusing substances of various kinds, or whose parents are abusing substances of various kinds, are also definitely at risk of not completing their education. It is an important social issue that has to be addressed in a very holistic way. I think that will be something that is going to be brought up again in this place, hopefully before the end of this Assembly. I hope that we do see a bipartisan commitment to having a good look at how we can ensure there is a collaborative approach to issues of substance abuse, because if we could do that more effectively than we are now we will actually see the potential for breaking cycles of disadvantage which are very destructive in the long-term for the community.

There are some extra comments on the back of this report from Mr Berry. He made a comment regarding the need for us to consider whether or not money should be spent by government on free school buses rather than on the sorts of recommendations that we have made in this report. The committee did not look in detail at resourcing issues, so Mrs Burke and I were not prepared to put that in as a recommendation of this committee, because we did not look at a whole realm of ways that you could fund it, and we have had that debate in this Assembly on three occasions, I think, that I can remember. However, the question of resourcing is important. I certainly hope to see in any response from the government at this point, but also the Labor Party, a commitment to resourcing in this area, because the costs in the long run of not coming in and supporting students in schools will be much greater than the costs of us doing that now. That also has been stressed in so many other reports.

I do not think I need to repeat for members of this place that the long-term benefits of looking at intervention and sanctions are clear. We do have in schools a very critical opportunity to get in behind families and students and help them in a way that will mean that they can have some reasonable kind of educational experience which will be with them for the rest of their lives in a way that will be a positive factor.

I ask members to read this report. I think it is an important report for anybody who is interested in the development of social policy across a range of issues.

MR BERRY (10.47): Mr Speaker, I rise to speak to this report, having participated in a very lengthy inquiry into the subject matter, adolescents and young adults at risk of not achieving a satisfactory education training outcome. This report and the most recent budget point to the misdirected priorities of this government. Nobody, and certainly not Labor, can oppose the 18 recommendations of the report. I have said before, and I say again, that this should form part of an action plan by any government to deal with young people who are at risk of not achieving their full potential in our schools.

What the report does highlight, Mr Speaker, is the inadequacy of the decision-making process of this government when it comes to resourcing. So often we have seen Mr Humphries, in particular, stand and say that if a committee is going to make any recommendations or any decisions about particular matters or try to put pressure on the government to do certain things it is going to have to fund it and tell us where the money is coming from. That is what is said to us ad nauseam, as you will all recall.

Mr Speaker, we have a government that worries about resources, but it does not worry about them for important social issues such as this when it comes to putting its election chances out there in front. The government has decided upon a free school bus program which will cost $27 million. If you have a look at the recommendations of the report and the commentary of the report, it will come as no surprise to you that many of the issues in relation to these young people as catalogued in the report have been around for some time. That is not something that ought to have escaped the government's notice when they were sorting out their funding priorities before the last budget. That is why I decided that there needed to be some extra comment about the misdirection of funding by this government.

We know that the government's decision to put $27 million into free school buses will mean that 75 per cent of all students will miss out, mostly in the government sector, but also a large number of kids in the non-government sector as well. There will be no benefit for them. It is plain to even the uninitiated that a better allocation of this funding would have gone to deal with the issues which confront young people within our education system, not just in the government system but also in the non-government system as well.

That is why Labor has decided to redirect funding from this vote grabbing, vote seeking election promise which died before the last election and was resurrected by this government for election purposes. We have said that we would redirect that funding back into schools where it would help young people as described in this report and as dealt with by way of the recommendations of the report.

Mr Speaker, there has been strong evidence given to other committees of this Assembly to suggest that the priorities of the government are wrong. I do not need to go into them. Members on the government side would be painfully aware of the evidence that was put before the committee, and those who do not support the way the government has allocated its funding are refreshed by the support that they get from witnesses before committees in this place about the government's misdirected funding in this case.

It is impossible to support the government's free school bus program against the background of the issues which have been turned up by this report. It is just impossible to support this funding priority when you see the difficulties which could be addressed if that funding was turned into our schools. How can this government, blush free, go to the electorate and say, "This was an election promise, so now we are going to honour that election promise"? It was an election promise that was long dead. It was not resurrected at the last election. It goes back to 1995.

It seems to me that the Liberals opposite were seeing themselves in desperate straits and needed something to grab a few votes for themselves. They tried to prey upon the sensitivities of the hip pocket nerve, the most base of aims, to achieve a few votes out there in the community, notwithstanding the difficulties that they knew about in our schools. Nobody can hide from the fact that these problems have been around for a long time, and if the government have not seen them they have been asleep. If the Liberal Party have not seen them they have been asleep. When they ignored those problems when there was such a significant amount of money available which could have been put into schools but instead put it into buses which will only support about 25 per cent of students, it is not hard to come to the conclusion that the government's priorities are misdirected.

Mr Speaker, I feel gratified by the level of support out there in the community which the Labor Party and others who support our position on school buses are getting on this issue. There is no doubt that when this was first announced people would say, "Well, it's hard to oppose that." But when you sit down and think about the fundamentals, it is not so hard at all. In fact, it is easy to oppose this ridiculous free school bus plan, especially when we are in an era where everybody out there is promoting education as a fundamental. It is the number one issue in our community if we are to progress. It is the number one issue in society if we are to progress. To abandon this important

principle for crass electoral reasons is a demonstration of a desperate government unable to come up with any sensible and cohesive idea about how to address an important social problem.

The social problems that you see with young people who do not reach their full potential in schools could easily have been addressed with a proper allocation of this money, and they weren't. It is very difficult for me to understand why anybody could stand up and defend this government's position on the allocation of this funding to free school buses, but I found one. That was Mrs Burke.

Mrs Burke put out a press release headed "ALP needs to focus on students at risk—not school bus plan". Well, that is what we are focusing on. That is where we want the money to go.

This was the most curious of press releases. I have to say, Mrs Burke, I did not find much love in this press release. I found it hard-hitting and uncharacteristic of you. I must admit that I came to the conclusion that it was probably written in somebody else's office, because I do not believe that your office is capable of such venom. It strikes me that this might have been written somewhere else. If this was written in your office then I must admit I have underestimated the usual warm glow of love and affection which flows from that edifice. Mrs Burke, I recommend that in future you write your own press releases because I do not believe that you would write anything like this.

I wrote to you and said this:

> Dear Ms Burke,
>
> You berate me for having a plan to use the free school bus money to help kids.
>
> As I told you yesterday, my heart is in this. I want the free school bus money to be spent in schools to help young people in need of support. I have seen this need over the length of the Inquiry into *Adolescents and Young People at Risk of not Achieving Satisfactory Education and Training Outcomes*.
>
> I acknowledge your uncharacteristically strident defence of this discredited free school bus scheme but I think you missed something in your press release.

The most important thing that you missed in the press release is how you thought the $27 million to be spent on free school buses will help these kids in need. Mr Speaker, I think that says it all. Here we had $27 million that could have gone to kids in need. These are easily identified issues. They have been around for a long time, and they are not something that we didn't know the basics of. This inquiry has uncovered and catalogued a range of issues which are of extreme importance to the community. I merely make the point, Mr Speaker, that the money that was put into free school buses could have been better spent and we would have got better social outcomes out of it. I am not quite sure what Mr Moore's version of social capital means, but we might even have built a bit of social justice out there in the community with the proper expenditure of this money in our schools.

MRS BURKE (10.58): Mr Berry, the ALP needs to focus on students at risk, not school bus plans. How right you are, sir; how right you are. I really believe that the ALP has tried to hijack the long awaited release of this important document, and that is disappointing. It is very sad indeed. This is an issue that affects us all. I believe that the attempt here to distract public attention from the report is very low. It is a desperate attempt to grandstand on Labor policy and it lacks the political will to address the issues raised in the report, as I said in my release.

Instead of constructively adding to the debate, a political attack has been launched over free school bus initiatives. Let's get it right here, Mr Berry. You were commenting well beyond the brief given to the committee in the first place. You had your say on this issue in the budget debate and you lost comprehensively.

I do not want that we try to distract the debate. Concentrate on the issues at the heart of the report. It's an excellent report and much work has gone into it, as you already said. There was unanimous support for the report. Let us move ahead in a practical way. It is a workable document. It provides useful recommendations for the government, which I think has been said as well, and I think we must all remember in this place not to be sidetracked by petty political grandstanding here. You are obsessed with your own roll-back of the government's free school bus scheme. This has been passed by this Assembly. Let's not make that an issue anymore. You have the chance to scrap the scheme when you come in, in October, but, until then, let this government get on with its job.

I am proud of the work done by the committee. It developed a detailed and constructive report for the government. It builds on the work done for students at risk of not achieving education in our system. The chair of the committee, Kerrie Tucker, is to be commended for this excellent report and her professional and dedicated approach.

MR HIRD (11.00): As a former member of this committee, I commend my colleagues on the committee and also my replacement, Mrs Burke. When you read the report in detail there can be no question that this house would have to agree with the 18-odd recommendations. I agree with our colleague Mr Berry in that regard. However, I note that Mr Berry went on and added Appendix 4 containing additional comments by the deputy chair, to wit, Mr Wayne Berry. Of course, Mr Wayne Berry has always been an expert in everything. Once again we find Mr Wayne Berry as an expert on free school buses. This chamber knows that in 1995 this party, this side of the house, agreed on a policy to have free school buses, and we are not apt to change our policy commitments.

Mr Berry: You forgot that one pretty quickly.

MR HIRD: When the time came, Mr Speaker, we reduced the deficit of $344 million, plus Harcourt Hill and the building of clubs in that area, which is another $30 million odd. We will not forget that at the appropriate time. When you go through Mr Wayne Berry's additional comments under appendix 4 you find he talks about the $27 million which the Treasurer has committed to the Minister for Education for free school buses. Mr Speaker, I draw your attention to page 95 of the report. In paragraph 11 Mr Berry says this:

It is abundantly clear—

Mr Berry: It's not Bill Stefaniak's money. Bill doesn't want it.

MR HIRD: Don't interrupt, Mr Berry. I am quoting you. You are interrupting on yourself, sir. Thank you. You said it is abundantly clear that the allocation of $27 million to a free school bus system is not being distributed equitably. That is what he said. In paragraph 12 he says that the $27 million that was being allocated to free school buses will be re-allocated to schools.

Well, that is a contradiction in itself, Mr Speaker, because all members would recall the desperate need for the expansion of the bus network and the pressure that has been put on Mr Guy Thurston, the chief executive of ACTION, and his staff to expand that network, in particular for the new developing suburbs of Dunlop and Gungahlin. A large part of the $27 million is to be allocated for the acquisition of new equipment and new buses which are urgently needed to expand the network. They can't have their cake and eat it too. There again, Mr Berry sometimes chokes on his own cake because once again he has lost the battery out of his calculator.

Where is that extra money coming from? Are we going to place this territory in financial chaos again? After 20 October, if those people who are leading the polls at the moment are on this side and on the treasury benches, are they going on another spending spree? That is what this tell us. This tells us that millions of dollars will need to be spent on the acquisition of new equipment, and that is a fact. That is a fact and that is part of the $27 million. But that is not what the deputy chair of this committee is saying. He is saying he has now persuaded his colleagues, under a policy which he just mentioned, to give the $27 million to education. He has made that public. So I ask not only Mr Berry but also the shadow Treasurer, Mr Quinlan, who has a better grasp of this position than Mr Berry, where is that additional money coming from to buy this plant and equipment for urgently needed buses? I note that they are silent. The fact is that they are going to run the tally up again and we will be in the red, as we were when we took over in 1995.

MR HARGREAVES (11.05): It is an absolute tragedy. What we have here, Mr Speaker, is a report, put together, I believe, with good intention on the part of members in this place, to address the issue of problems with kids at school and kids at risk generally. What we see is Mrs Burke getting up and having a go politically about Mr Berry's suggestion, and we have Mr Hird over here who just rambles on incessantly about the $27 million.

What is the substance of this report, Mr Speaker? It's about kids at risk. It's about kids with needs. It's about a group of people coming together and saying to the government, "You can do a little better in looking after the needs of kids at risk." I am surprised that these people have debased the issue by introducing such spurious nonsense into this debate, Mr Speaker. What we should be doing is highlighting what the government is doing well and highlighting what it is not doing so well, and making some suggestions on how it can get on and look after these kids at risk.

Mr Speaker, I had a fair bit to do with the creation of the Lanyon youth centre. That is an attempt to tackle holistically the problems of kids at risk. I know that Project Saul is another one that talks about kids at risk, because it talks about their social problems and their home problems, and unless those are solved they do not continue their education. They drop away. We all know that. Why do we debase this report by going off and having cheap political shots at each other? As far as I am concerned, it is appalling, Mr Speaker.

I urge members to look at the report in detail. I will not go through the detail because we will have a test at the end of the session—it is called the October 20 exam, Mr Speaker—to see whether or not we know what we have read.

Mr Hird asked where the $27 million is coming from. It is coming out of the government's budget. What about the $8 million for the rolling stock? That was just a garbage exercise because he knows damn well, Mr Speaker, that the government ran down the rolling stock for ACTION as a prelude to sale. The sale was interfered with, so, oops, we have got bad buses and old buses with metal sticking out of their tyres. That is where the money is going to come from—out of the normal budget to maintain a bus fleet.

This report, Mr Speaker, is titled *Adolescents and young adults at risk of not achieving satisfactory education and training outcomes*, and I would like to see this as part of a holistic package, because, when we talk about kids and their lack of achievement at school, I will bet you pounds to peanuts that you can chase a lot of it down to some problems in the home. It might stem from poor parentage and the environment in which they live, or peer pressure in their everyday social life. Some kids get bored at secondary school and do not see a future for themselves, so they turn to drugs, alcohol or all sorts of other things. There has to be a holistic approach.

We cannot say that the teaching staff at our schools are not looking after the kids enough. We cannot say that the counsellors are not looking after the kids enough. We can say that there are not enough counsellors. We cannot question the commitment of our teaching staff and the counsellors to do a great job for the kids. Teaching, Mr Speaker, is not a job; it is a vocation. We need to celebrate the fact that we still have people going into the teaching profession as a vocation. These sorts of reports point up to us the things confronting that vocation in looking after our kids, and I commend the committee for coming up with this report.

I still think, Mr Speaker, about the kids at risk socially. What about the kids at risk outside the school area? Let us put such reports into one volume. We keep talking about a holistic approach to looking after young people. We talk about a holistic approach to the drug problem and a holistic approach to community safety, but what do we do about it? We cut off a piece of it and we look into it deeply, but then we have solutions which do not fit necessarily into the jigsaw of a holistic solution. If I have any complaint about this report, Mr Speaker, it is that the terms of reference were not wide enough to have a more holistic approach to kids at risk.

Mr Speaker, I did not finish secondary school, so I might have been considered at that time to be a young person at risk of not achieving satisfactory education and training outcomes, but I certainly was not at risk at home and I certainly was not at risk

socially. In fact, I was anything but at risk socially. If anything I might have been at risk surviving socially.

Mr Wood: Are you at risk electorally?

MR HARGREAVES: I am at risk electorally. Thank you very much, Mr Wood, for the challenge. Mr Hoover was right; don't worry about the people in front of you, worry about the people behind you.

Mr Speaker, I commend this report to the Assembly. Come the October revolution, I ask the new Assembly to consider stitching together a number of these reports. Let's have a holistic picture of what we can do for these kids to make sure they get a better life than we have had so far and so that future generations of community leaders have sound education, sound social development, and a warm and loving environment from which they come.

MR STEFANIAK (Minister for Education and Attorney-General) (11.12): I will make some brief comments on the report. Firstly, I will make some comments in relation to Mr Berry's additional comments about school buses. Clearly those comments are extraneous to what seems to be, on the face of it, a quite good report. I think other members of the committee have made similar comments. I will remind members of some basic arithmetic I think I did during the last sittings when Mr Berry and others opposite maintained that this $27 million could be spent better, and how it could be spent in education.

Firstly, it is an initiative that emanates out of Urban Services and there is no guarantee that if it was available it would be spent on education. There are other competing priorities right across the board as well. But even if all of that money was available, I hark back to what I said in relation to a press release that I think one of the members opposite put out which indicated that, given that they were spending quite a bit of recurrent money on extending our kindergarten to Year 2 initiative to Year 3, it would only leave, on a recurrent basis, some $1.25 million per annum to spend on anything else, including some of the measures here.

Mr Berry: You forgot the $8 million, Bill.

MR STEFANIAK: That is capital, I think, Wayne. I think it is $7.92 million for new buses.

Mr Berry: No, it's not.

MR STEFANIAK: You need to look at your figures again. I know you lot are not terribly good at that. That is probably why we inherited $344.5 million plus back in 1995.

Turning to the report, I have not had a chance to read it in any detail. I just flipped through it quickly. It is quite obvious, Mr Speaker, that the committee put in a lot of work, and I thank its members for their efforts. There are a number of recommendations that, on the face of them, seem to be eminently sensible. Certainly, this government will look at them very closely. Any potential government after

20 October would look at them. I note the time the report has been brought down, but obviously I think there is a lot in it. There are some recommendations here that seem very sensible, and whoever is the government after 20 October would seek to bring them in.

MR WOOD (11.14): Mr Speaker, I too, as a former teacher, will make some comments. A fair part of my teaching career was concerned with children at risk, mainly at risk of low educational achievement. I read this report with great interest and I commend it. I think it says many fine things. I would wish that it had emphasised more strongly the central role of the classroom teacher. Good educational benefits for all students derive from the quality and the dedication of that teacher.

I worry that sometimes where problems emerge with children there is a tendency in our community to immediately seek specialist help. In many circumstances that is essential. But it is that classroom teacher who has the prime responsibility for every student in every class, and I would not wish it to be seen that teachers would ever think, and I hope they do not, "I can't handle this. It has to be handled by somebody else." Yes, by all means let us have all the help that is possible, but it is essential that the teacher focuses on every child.

Early in my teaching career I handled a large number of children who came to me showing signs of obvious neglect in their classroom. They were not quick to learn, that is true, and because they were not quick to learn they fell behind more and more and more, but we ascertained that they were capable of much higher achievements than they were reaching. It is a lesson I learnt, and it is one that all teachers should learn; that they have to get to each child and work individually with that child—it is not always easy in the classroom situations we have—to keep that individual up to educational marks. I have seen over many years a tendency, not a great tendency, to seek help when much more could be done within that classroom.

Having said that, and having taught in this system in the ACT, I think it is an excellent system full of dedicated teachers, but let us always remember the core role of every teacher and their attitude to every student in their class. We all know that we could walk into some classes, any classes perhaps, and find there are some children under-achieving. We know that. That situation does occur. Those under-achievers are capable of much more, and very often without specialist attention.

I note there are comments in the report about the training that teachers receive. If I do have any concern and complaint, I think sometimes our teaching education programs do not always focus on the need the teachers have to know how to handle some of the educational problems they will experience when they eventually get into the schools. Let us not forget that teacher. That is where it starts. Help may be needed at times—often it is essential—but it is the teacher who has the core responsibility.

Question resolved in the affirmative.

Planning and Urban Services—Standing Committee
Report No 74

MR HIRD (11.19): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 74—Mawson/Athllon Drive land use, dated 18 July 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, members will recall that on 6 December 2000 this house referred this matter to my committee. The Standing Committee on Planning and Urban Services has not supported a combined multi-unit and single-unit residential development proposal for the land adjacent to Athllon Drive in Mawson. Even though the land is already zoned residential, the parliament directed that the development proposal should be studied by my committee because of a number of concerns that had been expressed by local residents. The committee heard direct evidence in relation to these concerns at a number of public hearings. We also received 11 written submissions and had access to a further 93 submissions that had been received by PALM and forwarded to my committee.

The committee is concerned about the size, scale and impact of the proposed development in relation to the existing amenity of local residents, especially in the area south of Power Street, Mawson. Members do not feel that the proposal would blend in with other residences of different scales and with the local environment. Also, members are concerned about the traffic impact on local roads. Further, the access of residents to public transport would be awkward. Until the IPT corridor is operating—this is expected to come into operation some years ahead—residents would have had to rely on existing bus services in Mawson. There are no bus stops along this part of Athllon Drive adjacent to the proposed development. Anyway, the road would be difficult to cross for pedestrians. Use of public transport by residents of the proposed housing estate is problematic, to say the least.

The committee, as is its normal practice, meet on site with a number of residents and with you, Mr Cornwell, the local member, to ascertain the concerns of local residents. We appreciate the valuable time that those residents gave us on that occasion. On that note, I would like to thank those who made a contribution to this inquiry. It was extremely valuable to me and my colleagues.

On balance the committee considers that the proposed residential estate should not go ahead because it is relatively poorly served by public transport, it lacks good pedestrian and cycle connections to Woden, it creates further dense multi-unit development in an area already replete with this type of development, and it does not maintain the level of separation between different land uses which residents expect.

I thank the officers of PALM, in particular Dr Cooper, and I would also like to thank my two colleagues, Mr Corbell and Mr Rugendyke, as well as our Secretary, Mr Power. I do thank the residents of Mawson and the surrounding districts who came and gave up their time, as I indicated earlier in my statement, to assist the committee in its deliberations on this matter. These decisions are not taken lightly. This is a unanimous decision by the committee. In closing, I also thank other members for their assistance in this matter, in particular, Mr Cornwell.

Question resolved in the affirmative.

Justice and Community Safety—Standing Committee
Scrutiny Report No 10 of 2001

MR OSBORNE: I present the following report:

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 10 of 2001, dated 2 August 2001

I ask for leave to make a statement.

Leave granted.

MR OSBORNE: Scrutiny Report No 10 of 2001 contains the committee's comments on 20 bills, 10 subordinate laws and three government responses dealing with eight matters. Mr Speaker, the report was circulated, I believe, last week. It contains quite a detailed response from our legal adviser on the Crimes Amendment Bill. I imagine that members would have had a look at it, but I encourage those who have not to take the time to read it. I commend the report to the Assembly.

Legislative Assembly (Members' Staff) Amendment Bill 2000

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

> That this bill be agreed to in principle.

MR BERRY (11.25): Mr Speaker, Labor will be opposing the Legislative Assembly (Members' Staff) Amendment Bill 2000. This bill seeks to limit the rights of members staff—that is, staff members who have been employed by members and who hold positions in the ACT public service—especially when they are reintegrated into the public service.

Mr Speaker, if you have a look at the act you will see that the Merit Protection Review Agency has a particular role to play, and the rights of employees are guaranteed. Under this Merit Protection Review Agency process the relevant unions are involved in any review which takes place in relation to the reintegration of officers into the ACT public service after a period of employment with a member of this Assembly. What the government is seeking to do is put in place another process which rules out the involvement of relevant unions. We feel that this will limit the rights available to members and the independence of the integration process.

Mr Speaker, proposed section 13A (3), at page 4 of the bill, states:

> On receiving an application, the commissioner must establish a committee consisting of—
> (a) a person nominated by the relevant chief executive; and
> (b) a person nominated by the commissioner; and
> (c) an independent officer;

In our view, the independent officer can hardly be described as independent if he is appointed by the commissioner. Under the MPRA process, relevant unions have a close involvement and that independence should be preserved.

Mr Speaker, I should also draw the Assembly's attention to a record of findings of a matter before the Industrial Relations Commission on 6 November 2000. The record of findings—document C No 90526 of 2000—goes to the issue of an industrial dispute involving the Media, Entertainment and Arts Alliance. The document states, in part:

> The parties to an industrial dispute are Media, Entertainment and Arts Alliance on the one part and all Members of the Australian Capital Territory Legislative Assembly including "The chief executive officers" how so ever titled and any statutory authority, corporation, commission, administrative unit or autonomous instrumentality of the Australian Capital Territory Government on the other part, but excluding ActewAGL.
>
> The subject matters which are in dispute, in so far as they are industrial matters within the Act, are set out in the Letter of Demand and Log of Claims of the Media, Entertainment and Arts Alliance dated 30 November 2000.

Mr Speaker, I seek leave to table this document, which establishes that there is an industrial relations dispute before the Industrial Relations Commission in relation to this very matter.

Leave granted.

MR BERRY: Thank you. I present the following paper:

> Australian Industrial Relations Commission—Record of findings concerning an industrial dispute between the Media, Entertainment and Arts Alliance and all Members of the Australian Capital Territory Legislative Assembly, dated 6 November 2001.

It strikes me as inappropriate for the Assembly to move to make changes to legislation which impinge upon this industrial relations dispute and further proceedings before the Industrial Relations Commission. I therefore call upon members to oppose this bill.

Debate on the legislation has been adjourned once. I think at this point we should just oppose it and let the matter be properly settled in the industrial relations arena. If subsequently we are required to deal with this matter, we can do so in due course.

Labor thinks that the legislation is ideologically based. It seeks to take away rights previously held by employees of Assembly members and impose upon them a different set of arrangements in the context of an industrial dispute. Mr Speaker, that is an inappropriate course for this Assembly to be taking and the matter ought to be settled industrially.

I am not able to go to all of the issues which are the subject of the industrial dispute, and it would be pointless for me to do so. I merely draw the Assembly's attention to the fact that there is an industrial dispute on foot and we are seeking to introduce legislation which will undermine the settlement of that dispute in an appropriate forum. So, Mr Speaker, I oppose the bill.

MS TUCKER (11.31): Mr Speaker, this bill clarifies that the employment conditions set under the Public Sector Management Act apply by default to staff of members where such conditions are not already included in the employment agreements of these staff.

In principle, we agree with these amendments, but I do not support the fragmentation of employment conditions that is arising across the agencies of the ACT public service as a result of agency bargaining. I acknowledge that there is a need to ensure that the LA(MS) Act is consistent with these new arrangements.

While in general I believe that staff of members should be employed under similar terms and conditions as apply in the ACT public service, I recognise that the nature of the work in the Assembly and the fact that there is no guarantee of permanent employment requires that there be some differences from the standard public service terms and conditions. There is also the need to cater for the differences in operations between individual members officers and different parties.

I understand that most staff in the Assembly are already employed under contract and that there have been moves from the ALP to establish a certified agreement covering some Assembly staff. The linkages back to the public service are therefore becoming more fragmented, and I think it is reasonable for the legislation to reflect this.

This bill also puts into place new reintegration arrangements for public servants who work for members and who wish to return to the ACT public service. I understand that this is necessary because the Commonwealth Merit Protection and Review Agency, to which the LA(MS) Act referred such applications, no longer exists.

I think the opportunity for public servants to work in members' offices provides benefits to both sides. Members get staff who are experienced in ACT administration and public servants get experience with how the Assembly works. I can understand that public servants may be reluctant to work here because of a perception that it will negatively impact on their careers. Making sure that these public servants can maintain their career options within the public service and also making sure that their employment here can be recognised in terms of gaining a promotion will help to overcome this barrier.

I do, however, have a concern about the detail of the bill. I note that the new re-integration committee includes a so-called independent officer. In the past, these types of committees included a representative of the relevant union as the independent person, and I am concerned that in this bill the Liberal Party is applying an agenda of diminishing the role of unions in industrial relations. No explanation is provided of how this independent officer would be selected and how their independence will be ensured. I think a person should still have the option of having a union representative on the committee.

In the bill, the commissioner sets the procedures for choosing the independent officer and also nominates another person for the committee. So, in a sense, the commissioner is involved in the selection of two of the three people on the committee, which could reduce the independence and credibility of the committee.

I recognise that this part of the bill will affect very few people. In fact, I understand that currently only one adviser is directly affected. But there is an important principle here about union involvement and staffing issues which needs to be addressed, and I am aware that the government is proposing similar changes to the Public Sector Management Act. I will therefore be moving an amendment to the bill at the detail stage to address this issue.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.35), in reply: Mr Speaker, I note the comments of members in this debate. I hope that the legislation is passed because I believe it is important for two reasons. It preserves existing entitlements within a new framework that does not rely upon repealed Commonwealth legislation or the support of officials from other jurisdictions. It also removes an uncertainty about the core employment conditions that apply to staff of members of the Legislation Assembly.

The current employment framework allows members and their staff to agree to the majority of employment arrangements through individual agreements. However, some core employment conditions, such as maternity leave, continue to be derived from the ACT public service. Since there are sometimes agency-level variations to these conditions, it is important to establish an appropriate benchmark. The Public Sector Management Act and management standards represent that benchmark and this bill establishes this link.

I am aware, Mr Speaker, that some member or this place and their staff have agreed to conditions that are almost derived from the ACT public service. For these staff it is even more essential, I believe, that clear and appropriate links are identified in relation to day-to-day conditions such as leave and more important issues such as the right to seek a review of employment-related conditions. I emphasise that without legislation like this we do not have that clarity provided in that relationship.

The bill has been developed in consultation with members, their staff and unions. The Media, Entertainment and Arts Alliance suggests that the proposed reintegration assessment panel should have a union representative. This has not been reflected in the bill, although provision has been made for the panel to include an independent officer.

Mr Speaker, I am happy to listen to the arguments that Ms Tucker puts forward as to why a union representative ought to be permitted as matter of course if a person nominates such a representative in the event of a panel being constituted.

Under the bill, the Commissioner for Public Administration will establish procedures for selecting the independent officer for the panel. I have circulated a minor government amendment changing the commencement provision to the normal perspective split commencement. This means that the substantive provisions of the bill will commence on a date fixed by the minister by notice in the *Gazette*.

The original provisions in the bill were drafted with the intention of debate taking place last year and, subject to the view of the Assembly, being operational from 1 January 2001. This did not occur because of changes to the sitting pattern of last year's spring session. Members will recall that a minor bill passed last December continued existing arrangements with the Merit Protection Commissioner, pending consideration of this bill.

Mr Speaker, these amendments are both necessary and straightforward. They are designed to clarify the employment conditions of members staff without affecting those conditions and to preserve existing entitlements within the ACT legislative framework.

Mr Berry described the bill as being ideological. I would suggest that his position has been stated in this place before, which is that union representatives ought to be a part of any dispute panel, irrespective of whether an individual staff member is a member of a union. It is worth reflecting that the overwhelming majority of ACT public servants are not members of unions. It would be quite unfair to impose a condition of union participation in such panels if that was not the wish of the member concerned.

Mr Speaker, I think this arrangement is flexible enough to provide for an appropriate balance between the requirement to have a matter fairly heard and for a member to be satisfied that the panel considering the assessment is independent and capable of making a decision based on the merits rather than any other consideration. I suggest that is not ideological but it reflects simply what would be a sensible management practice in such circumstances.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes, 11		Noes, 6	
Mrs Burke	Mr Osborne	Mr Berry	Mr Wood
Mr Cornwell	Mr Rugendyke	Mr Corbell	
Mr Hird	Mr Smyth	Mr Hargreaves	
Mr Humphries	Mr Stefaniak	Mr Quinlan	
Mr Kaine	Ms Tucker	Mr Stanhope	
Mr Moore			

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.42): Mr Speaker, I move the amendment that has been circulated in my name *[see schedule 1 at page 2505]*. As I mentioned in my closing remarks during the in-principle debate, this amendment allows for the usual split commencement date to operate. I ask members to support this amendment.

Amendment agreed to.

MS TUCKER (11.43): I move amendment No 1 circulated in my name *[see schedule 2 at page 2506]*. This amendment relates to the so-called independent officer on the reintegration committee. As I mentioned during the in-principle debate, previously these types of committees included a representative of the relevant union as the independent person. The government has given no good reason to change this situation, apart from their desire to get rid of unions. I think that if a person wants to have a union representative on the committee then they should still have that option.

My amendment, therefore, allows the applicant to request that the Commissioner for Public Administration ask a nominated union to put forward a person for the committee, and if the nominated union puts forward the person then the commissioner must appoint that person to the committee.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.44): Mr Speaker, the request by Ms Tucker to allow a person to nominate a union representative, if that is the wish of the person, is not a matter with which I have great disagreement. My understanding is, as members can see from proposed section 13A (4), that the commissioner can set out procedures for choosing an independent officer to serve on the committee. I would expect that that would generally result in a person who is nominating a union representative to get such a person onto the panel. At least that would be my impression of what that particular procedure would be designed to serve.

However, Ms Tucker, for the sake of certainly, wishes to include that right within the terms of the bill. Mr Speaker, I do not have a great objection to that and the government will not oppose this amendment.

Amendment agreed to.

MS TUCKER (11.45): I move amendment No 2 circulated in my name *[see schedule 2 at page 2506]*. This amendment relates to the procedures for appointing the independent person to the committee and the procedures that the committee must follow. I am concerned that the bill just says that the commissioner may set these procedures. I think it is important that the commissioner should set these procedures

rather than just leave it to the commissioner's discretion. My amendment changes "may" to "must" and also makes the procedure a disallowable instrument so that the process is accountable.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.46): Mr Speaker, I do not have a particular objection to this provision, except that, once again, it brings the administration processes within the government into the Legislative Assembly, for the Assembly to tinker with if it wishes.

I make the point that the Assembly has passed legislation which has led to a rising tide of disallowable instruments coming before us on a regular basis. My impression is that the vast majority of these instruments are never looked at by members of this place. I suppose this practice may alert someone who might disagree with an instrument and provide them with the opportunity to come forward.

There is a lot of paperwork associated with making a disallowable instrument and, I have to say, I really wonder just how much scrutiny is given to those instruments by members of this place. We regularly have matters put into that form and I really doubt whether it is resulting in much scrutiny at all by members of parliament, particularly in a parliament of this size.

Mr Speaker, I have indicated our position and I wonder whether members expect to use this to make any changes.

Amendment agreed to.

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

Bill, as amended, agreed to.

Duties Amendment Bill 2001 (No 2)

Debate resumed from 15 June 2001, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (11.48): The opposition will be supporting this bill, which relates to the exchange of various assets and duties applying thereto. We have looked at it and can see no major problem with the mainly technical nature of the changes being made.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.49): Mr Speaker, I seek leave to move amendments 1 and 2 circulated in my name together.

Leave granted.

MR HUMPHRIES: Mr Speaker, I move the amendments *[see schedule 3 at page 2507]*. I table a supplementary explanatory memorandum in relation to these two amendments. I indicate that these provisions simply pick up a further piece of legislation which was not properly covered in the original legislation, namely, the Legislation (Consequential Amendments) Act 2001.

Amendments agreed to.

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

Bill, as amended, agreed to.

ACTION Corporation Bill 1999

[Cognate bill:

Road Transport (Public Passenger Services) Bill 2000]

Debate resumed from 25 November 1999, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Road Transport (Public Passenger Services) Bill 2000? There being no objection, that course will be followed. I remind members that in debating order of the day No 3 they may also address their remarks to order of the day No 4.

MR OSBORNE (11.50): I move:

> That the debate be adjourned.

Mr Speaker, I seek leave to speak to the motion.

Leave granted.

MR OSBORNE: Thank you, Mr Speaker. At about 20 to 11 today I received on my desk in the chamber 15 pages of amendments from the Labor Party. This bill has been on the table since 1999 and I do not think it is fair that members on the crossbenches who have concerns about the legislation should be placed in a position where we could be voting on the bill, even during the in-principle stage, without having had time to look at these amendments.

I and many other people have been criticised in the past by the Labor Party for not providing amendments until the last minute. As I have said, it is not acceptable that we should be placed in a position where we are required to vote during the in-principle stage without having had time to properly look at these amendments.

This is a significant piece of legislation. As I have said, it has been on the table for a number of years. I would expect that all of us in this place have looked quite closely at it. The TWU have—

Mr Humphries: We don't care if we adjourn.

Mr Quinlan: Yes, sit down.

MR OSBORNE: Mr Quinlan asked me to sit down. I can understand his embarrassment.

MR SPEAKER: I know, but what I would like to establish is whether it is your intention to adjourn the debate to a later hour today or to the next day of sitting.

MR OSBORNE: I am happy to adjourn it to a later hour this day. But if I am not satisfied that there is not enough time to debate it this afternoon, I will adjourn it to another day in this sitting.

MR KAINE: Mr Speaker, I seek leave to speak to the motion that the debate be adjourned.

Leave granted.

MR KAINE: I must say I am a bit surprised that we have before us a motion to adjourn the debate on the basis put forward by Mr Osborne. If you look at the 15 pages of amendments put forward by the Minister for Urban Services, you will see that they seek to achieve one thing—that is, to delete the word "Corporation" and insert the work "Authority". The same applies to Mr Quinlan's amendments.

Mr Quinlan: No.

MR KAINE: Well, there are one or two minor amendments in addition to that. Mr Osborne is right: it is an important bill and it has been on the table for a long time. But it is a bit odd to seek to adjourn it on those grounds. The matter needs to be debated. So, unless there is something underlying this that I am not privy to, why don't we get on and debate the substance of the bill?

MR QUINLAN: Mr Speaker, I seek leave to speak to the motion.

Leave granted.

MR QUINLAN: Just for the record, late last week the Transport Workers Union and the government concluded negotiations on the structure of their future relationship. So I think it is fairly reasonable that there should be a few changes, and there are only a few changes inherent in the 15 pages of amendments.

This bill has been around for a long time and I am keen to see whether, during that time, Mr Osborne has been able to produce any amendments of his own.

Question resolved in the affirmative.

Debate adjourned to a later hour.

Road Transport (Public Passenger Services) Bill 2000

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

> That this bill be agreed to in principle.

Debate (on motion by **Mr Osborne**) adjourned to a later hour.

Community Title Bill 2001

Debate resumed from 3 May 2001, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

MR CORBELL (11.55): Mr Speaker, this bill moves to establish community title for land in the ACT; it moves to establish a community titles scheme; and it moves to provide for common ownership of parcels of private leases of land, whether they are through body corporates or through individual single dwelling blocks.

Mr Speaker, the Labor Party in principle has no objection to the proposal brought forward by the government today. Indeed, there are some clear examples as to why the development of the community title scheme would be of benefit to the territory. This is particularly the case in relation to common land for multi-unit or townhouse development.

Increasingly we are seeing in new developments the development of common purpose areas shared between different development projects, particularly for parks, BBQ areas, tennis courts, swimming pools and so on. These areas are not within the traditional range of body corporate arrangements, where the land is owned by a single unit title plan. Instead, they are sites which will be used by a variety of unit title plan developments, and therefore by a variety of separate leaseholders. Difficulty has arisen where leaseholders have been unwilling to accept common responsibility for the management and maintenance of these land parcels, and indeed on a number of occasions we have seen the territory have to revert to being the owner of the land and maintain that land.

The passage of the Community Title Bill will provide, for the first time, a clear legal framework for the ownership of common land and common facilities between leaseholders. It will set out the requirements for maintenance and management of those land parcels. It will also set out the mechanisms for dispute resolution and for the winding up of those common titles.

Mr Speaker, this is a move which the Labor Party will be supporting today. However, I note that the minister has this morning circulated a number of amendments. I received a briefing as late as yesterday on this bill from officers of the minister's department and they did not at that stage raise with me the prospect of government amendments. I am, therefore, somewhat surprised to see these amendments tabled this morning and I do not believe I am in a position to deal with them at this stage of the debate. So I foreshadow, Mr Speaker, that I will move for the detail stage to be dealt with at a later hour this day so that these amendments can be fully considered.

Community title is an interesting concept that will allow for individual leaseholders to develop common land uses in their area. The one concern the Labor Party does have about this legislation is that potentially it will open a loophole for further development on common land, and particularly in relation to single dwellings. Having looked at the legislation, that remains our fear. However, I am assured by the department and by Planing and Land Management that any development application that takes place on these land parcels first of all must happen with the consent of all parties, but secondly it must take place in a way that meets all of the existing requirements of the land act, particularly in relation to notification, appeal rights and the normal development approval process.

That said, Mr Speaker, we are prepared to accept the bill as it currently stands because it does permit the normal range of appeal rights and the normal development approval process to take place. But we will want to be monitoring very carefully that the bill is not used as a backdoor means of encouraging further development of dwellings in relatively small enclosed areas, particularly between adjacent single dwelling blocks.

Mr Speaker, with that reservation, the Labor Party will be supporting this legislation today as it is a scheme which will provide for shared facilities between separate leaseholders, and it is a way of encouraging a better use and utilisation of land, particularly around multi-unit and townhouse-style development.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (12.01), in reply: Mr Speaker, I thank the Assembly for their support of this very valuable piece of legislation. Schemes in places like New South Wales and Queensland work well. The legislation will make sure that owners and the users around a certain parcel of land may share in a joint or common interest.

Mr Speaker, I foreshadow that I will be moving the amendments that have been circulated. Those amendments follow the scrutiny of bills committee report. As well, we have been working with the ACT Law Society, and they saw the need to amend the bill slightly to make it more effective.

I am not sure why Mr Corbell was not briefed on the amendments, because they have certainly been ready to go for some time now. The government has four amendments. The first amendment clarifies clause 9 by providing that any scheme must be consistent with the act before it can be approved. Clause 67 requires a seller of any lot to provide a statement to a potential buyer of a lot in a community-type titles scheme. The clause provides a protection for a buyer during the selling process so that they are absolutely aware of what it is that they are getting into. We believe that, based on

comments from the Property Law Committee of the Law Society and comments from the scrutiny of bills committee, it is an appropriate amendment to make.

Clause 93, which we also seek to amend, deals with the review of decisions made by the minister that would refuse the consent of some community title schemes. Again, having worked through the material with the Law Society and the scrutiny of bills committee, we considered it was appropriate to make these amendments.

The Community Title Bill 2001 has been developed following quite wide consultation over about 18 months. That process involved the major parties who would have an interest in this. We went out to groups as diverse as the Institute of Surveyors and the Residential Tenancy Advisory Group. If and when the bill is passed—and clearly it will be passed—it will be the subject of public information sessions. This will allow the people of the ACT to have a choice of lifestyle similar to that that exists over the border in New South Wales at the Merryville Estates in Murrumbateman.

Mr Speaker, this choice will bolster the way people live in the ACT. I think we need to make sure that we are competitive in respect of what is happening across the border. But I think we also need to make sure that we offer protections for those that would get involved in such a scheme, and I can see that numerous groups would be interested in this.

Mr Speaker, the amendments are quite simple and I would hope that we might be able to proceed with them. I thank the Assembly for supporting what will be, I think, a very valuable and very worthwhile change to the way people can live in the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (12.04): Mr Speaker, I seek leave to move the amendments circulated in my name together.

Leave granted.

MR SMYTH: I move my amendments Nos 1 to 4 *[see schedule 4 at page 2508]* and I table the explanatory memorandum. The first amendment amends clause 9 and simply adds the words "that need to be made for the scheme to comply with this Act". I think this is self-explanatory.

MR CORBELL (12.05): Mr Speaker, having heard the minister's explanation of the amendments—and I have had a further quick look at them—the Labor Party is prepared to proceed at this stage. They appear to be relatively minor. The Labor Party has no objection to this amendment.

Amendments agreed to.

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

Bill, as amended, agreed to.

Road Transport (Safety and Traffic Management) Amendment Bill 2001

Debate resumed from 21 June 2001, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

MR CORBELL (12.06): Mr Speaker, the Road Transport (Safety and Traffic Management) Amendment Bill 2001 deals with the implementation of speed and red light cameras as a permanent regime following the introduction of the trial a little over a year ago.

The introduction of speed and red light cameras is an important step in improving road safety and it is certainly one which I believe all members in this place support. This is a necessary step in achieving a greater level of driver awareness as it relates to their behaviour behind the wheel, and particularly the impact that speed can have on the rate of accidents in our city.

That is not to say that the Labor Party has not raised a number of concerns about the implementation of the current regime—not the introduction per se of speed and red light cameras but the way in which they have been implemented. Indeed, on a number of occasions the Labor opposition has raised the appropriateness of signage in some locations, or the lack thereof. But speed and red light cameras, particularly red light cameras, do play an important role.

We believe that the trial over the past year or so has been both necessary and valuable. In fact, from the Labor Party's perspective, red light cameras have been a most welcome initiative because drivers have become more aware of the extremely dangerous accidents that can occur when they refuse to obey the traffic signal and enter an intersection.

Mr Speaker, the incidence of accidents at intersections is of particular concern. All too frequently in this city we see the impact, literally, of drivers who choose to run red lights. This behaviour must be addressed. It can now start to be addressed through the introduction of a permanent regime of red light cameras in the city.

Mr Speaker, I am sure that my colleague Mr Hargreaves and other members will want to speak on this bill, so I will conclude my comments. I know that Mr Hargreaves will want to raise particular concerns about the implementation of speed and red light cameras rather than the principle of having them in place in this city. The Labor Party will in principle be supporting this legislation.

MR HARGREAVES (12.09): As Mr Corbell has said, in a sense we bow to the inevitable in regard to the installation of speed cameras. However, for the record, we absolutely and emphatically support the use of red light cameras in this town to stop people from killing other people through reckless driving.

Mr Speaker, I believe that the legislation did not need a sunset clause. It should have been introduced without such a provision. We could very well have a raffle around the ACT to decide how many traffic lights ought to be equipped with red light cameras. However, I have to say that the traffic lights at the corner of Newman Morris Circuit and Taverner Street are a bit shy of a speed camera. This is largely because there is no pole to put one on.

Mr Speaker, I think the introduction of speed cameras into the ACT has been an appalling mess. The government should have been honest and said to the people of the ACT, "This has got nothing to do with road safety. This is all to do with cashing in on you idiots," because there are idiots out there speeding, breaking the law and being a danger to other people. This measure has not slowed people down. If you have a look at the curve on the Victorian graph you will see that people get frightened for a while and then they go back to their old habits.

I do not believe that this measure has had a particular effect on changing driver behaviour. The minister's own figures have shown that whilst most people have dropped their speed, the number of speeding drivers being pinged has gone up. If you have a look at the accelerating rate of revenue that is coming in from this source, clearly there are more people speeding. In addition, people are being recorded as driving at speeds far in excess of 15 kilometre over the speed limit.

The government would have us believe that this is a really "you beaut" road safety measure and yet they are the same people that have maroon coloured speed vans operating at 11 o'clock at night in bushes on the side of the road. My colleague Mr Wood saw one in operation last night. I might add, Mr Speaker, that he was not pinged for excessive speed. As we know, Mr Wood is an extraordinarily cautious human being.

Mr Hird: A bit like yourself.

MR HARGREAVES: Not unlike Mr Hird. I have to say that if it is going to be a road safety measure, it has got to be in your face—absolutely in your face.

Of course we need to have speed camera vans out there. But we need to tell the ACT public, "This is a revenue raiser. We want your money to fund more police, more ambulance officers and more road safety education." Of course, there is no causal relationship between the amount of money you get in from the speed cameras and the amount of money that is spent. So if anybody tells you that the government is spending more money on speed cameras because this is a road safety issue, they are telling you porkies. Mr Speaker, they are pseudologists of the nth degree—and I suggest that Mr Hird look up the meaning of that word.

Minister, I take it that we are talking about the re-instating of the burnout legislation?

Mr Smyth: Correct. That is the bill that is listed on the paper.

MR HARGREAVES: I thank the minister for his update, and I say that quite sincerely. I was somewhat amused by the way in which the proponent of the burnout legislation made much in the local media about the stuff-up in Belconnen. We found in fact that the burnout was not on a public street at all. We find, Mr Speaker, that this is nothing more than a smoke and mirrors, hard line, law and order exercise designed to give somebody publicity.

When I was in my electorate the weekend before last I was taken to a spot where people had been doing burnouts. This incident had been reported to the police. The police, who have the authority to do something about it, went down to the spot and found nothing but rubber marks on the road. Mr Speaker, we do not have enough police to enforce the law. If Mr Smyth wants to laugh about this, I will quite happily take him to the place where the rubber marks are on the road. Our attitude on this side of the house is that burnouts are not an acceptable practice at all. It is a stupid practice which is likely to cause injury and death.

What we are concerned about, though, is the ability of the police to knock your car off. I do not like that. I believe that that is what the judiciary are for. We have said a thousand times before that that is why we have magistrates. This is a blatant case of the proponents of this legislation having no faith in the judiciary. Withdrawing power from the judiciary is not the way to go.

There has not been much lateral thinking. We oppose this legislation on rights and privileges grounds, not on the motives behind it. Mr Speaker, why didn't Mr Rugendyke, or even the government for that matter, introduce a significant savage on-the-spot fine for this practice? If they are so keen to stop it, what is wrong with that? What is wrong, for example, with investigating whether or not the police could carry in the back of their vans or cars wheel braces that lock up and immobilise vehicles for a number of hours? Why not give police the power to do that, and embarrass people in front of their peers? What is wrong with that?

Mr Speaker, it is not my job to propose legislation to fix the government's inadequacies. Nor is my job to propose an alternative to Mr Rugendyke, although I have suggested some of these measures to him. Instead of saying, "Let's give more power to the police," we should be addressing why the stupid practice of burnouts is still happening. I suggest that knocking a bloke's car off is neither here nor there. In my office I have statistics from constituents who have talked to me about this problem. A lot of people complain to me about lack of safety in the suburbs. They talk about people roaring up and down the streets, leaving rubber all over the place, tearing around the car parks, and putting donuts on the road.

How many prosecutions have we seen? By Christmas in the first year of this legislation, I think there were something like seven, and none of them related to incidents in Tuggeranong. How many of them were in Ginninderra? I bet there were not too many. They were in the known hot spots like Lonsdale Street and Challis Street in Dickson. But we do not see many people charged in the suburbs, because by the time the police get there, they are gone. We need to have legislation which will stop them doing it in the first place. But just knocking your car off is just stupid; it

does not do any good. Legislation which imposes significant penalties and embarrasses somebody may have some effect.

While I expect the police to look after people's safety, this government is introducing community volunteer programs to help the police. This is being done because we do not have enough police. We do not have enough police to address home invasions, even though the rate has gone down. We have not got enough police to address motor vehicle thefts and here we are encouraging the police to knock your car off!

Mr Smyth: Go back to your first speech. We are actually back on red lights.

MR HARGREAVES: We have gone back to red lights?

Mr Smyth: The blue is right.

Mr Wood: We were right.

Mr Smyth: No. The blue does not have No 2 after it. So go back to your other speech.

MR HARGREAVES: Changing tack again?

Mr Smyth: Yes, go back to your other speech.

MR HARGREAVES: I wonder who was talking about filibustering this morning. They want me to switch tack. I thank the minister very sincerely for bringing me up to date, as he did the last time.

Mr Speaker, we still think the burnout legislation is dopey, we still think it is an infringement of civil liberties to take that power away from the courts, and we still think speed cameras are in fact a revenue raiser. I believe that, as a road safety issue, those vans should be so obvious that they discourage people from speeding.

I would offer this slight suggestion to the minister: what about making speed camera vans iridescent yellow so that they glow in the dark? We could then say to people who are leaving Cooma to come to the ACT, "You will be able to see that there is a speed camera on Hindmarsh Drive." I suggest that, as frivolous as that might sound, the issue is that speed camera vans have to be obvious if they are going to address a road safety issue. Using dark green or maroon vans at night time is not what I would call addressing a road safety issue.

Mr Stanhope raised with me this morning a very good point about red light cameras at intersections. There should be a humungous great sign which says, "There is a red light camera at this intersection. You are a fool if you go through a red light."

I have often spoken about the use of speed cameras to entrap people. Mr Speaker, you will know the intersection of Hindmarsh Drive and Melrose Drive particularly well. When you come from Weston Creek heading to your own good place, in the blink of an eye you move from what is essentially an 80-kilometre an hour zone to a 60-kilometre an hour zone. Many people have been caught by the cameras because of that. Mr Speaker, can I suggest to you, as I have suggested to the government, that if

the government wanted to be honest about this they would stick up a sign about 100 to 200 metres before the intersection saying "60 kilometre an hour a zone coming up". If you are a fool and you want to keep going through the intersection at 80 kilometres an hour, you deserve to get pinged and you deserve to contribute to consolidated revenue.

Mr Speaker, there are many things about this speed and red light camera program that have warts on them. But we can turn it to our advantage, and come the October revolution I hope to do something about that. We support this legislation because there is no doubt that red light cameras are a decided road safety measure. Speed cameras are one of the best sources of revenue that God ever invented, and we are stuck with them.

But we will be making red light cameras more obvious. We will be making sure that there is an education program and that there will be publicity. We will not be claiming that this measure is working because it has reduced speed, because I do not believe it has. Mr Speaker, I recommend that the Assembly support this legislation. It should get rid of the sunset clause. However, I continue to oppose the dopey burnout legislation.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (12.24), in reply: Mr Speaker, after the initial confusion about whether we were considering bill 2001 or bill 2001 No 2, we are on the bill 2001, which, of course, relates to red light and speed cameras, and I would thank the Assembly for their support.

It is interesting that Mr Hargreaves thinks you should have a sign at intersections that says, "There is a camera here and you are a bloody idiot if you go through a red light." I would have thought that whether or not there is a camera in place, you are an idiot if you go through a red light intersection anyway without complying with the law. That is what this is about. But that aside, it is clear that the Assembly will support this bill and remove the sunset clause. I thank members for that support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole and agreed to.

Bill agreed to.

Sitting suspended from 12.30 to 2.30 pm

Visitors

MR SPEAKER: Before I call for questions without notice, I would like to recognise the presence in the visitors gallery of Japanese students from Experiment Australia. They have two leaders, Mr Honda and Mr Tajika, who are from the Umagaski City Board of Education. Welcome to the Assembly.

Questions without notice

Auditor-General—misleading by public servants

MR STANHOPE: My question is to the Chief Minister. In an interview on ABC Radio on 12 July the Chief Minister conceded that the head of his department had been wrong in informing the Auditor-General that a review had been undertaken into the possibility that senior public servants had acted outside the law in relation to the Bruce Stadium redevelopment. The Chief Minister said that Mr Tonkin had misled the Auditor. A review had not been undertaken, a fact confirmed in correspondence between Mr Tonkin and his predecessor, Mr Gilmour, who had told the Auditor of the review in August 1999. The Chief Minister said that Mr Tonkin had written to the Auditor to express his regret at misleading him in his original response to the Bruce Stadium audit in July 2000.

Can the Chief Minister say why it took almost two years for the most senior officers in his department to realise that no review had been undertaken and to correct the misleading information given to the Auditor? Does he agree that the misleading of the Auditor is a most serious matter?

MR HUMPHRIES: I thank Mr Stanhope for that question. Yes, Mr Tonkin did completely mislead the Auditor. I make no secret about that. I do not pretend to disguise that or cover it up. It was the case. I am satisfied from my discussions with him that the misleading was inadvertent. It was based on an assumption in documentation that was before him. I believe that the appropriate course of action in those circumstances has been followed; namely, that Mr Tonkin has expressed his regret for that to the Auditor and to me. He indicates that he believes it is unlikely to recur.

I would like to think we had public servants and, indeed, members of this place who were incapable of making mistakes, but regrettably that is not the case. In the circumstances, what is necessary is procedures to prevent such mistakes being made. If they are made because of inadequate procedures, then steps are taken to ensure they are not made again in the same way by an improvement of procedures being put in place, and a preparedness to acknowledge mistakes promptly when they are made.

Mr Stanhope describes the period between the review having supposedly been done and being acknowledged as not having been done as two years. That is an exaggeration, of course, because it was not in issue for all that time that there was a review that had not been done. It was not put in that way for that period of time. Certainly, the fact that a former head of the Chief Minister's Department had gone to the United Kingdom and the review that it had been assumed he had done had not been done not being discoverable until some time afterwards was a matter of concern. But, Mr Speaker, I am satisfied, as I have said, that the issue was one which was a genuine mistake on the part of Mr Tonkin. The issues which were to have been the subject of the review in any case were covered comprehensively by the Auditor-General.

I do not believe any harm has been done by virtue of that mistake having been made in terms of the advice given to the Auditor-General. As I say, I regret that it happened, but I do not believe that it is likely to recur.

MR STANHOPE: Mr Speaker, can the Chief Minister advise whether he has requested that the review that was said by Mr Tonkin to have been undertaken will now be undertaken? Is the Chief Minister confident that the instance admitted by Mr Tonkin is the only misleading information given to the Auditor in the course of the review? Is he aware, for instance, if a further search of public service records has been able to locate the sensitivity matrix and comprehensive comparative analysis of the competing bids for the original redevelopment tender that the Auditor was told were undertaken? Has Mr Tonkin been able to glean any more information regarding the location of the sensitivity matrix and the comprehensive comparative analysis from Mr Gilmour, or is this another example of the Auditor being misled?

MR SPEAKER: There are not many questions there, Chief Minister.

MR HUMPHRIES: Yes, Mr Speaker. I do not know what further issues Mr Stanhope is referring to. If he believes someone in this process has been misled, he should indicate what he thinks has been misleading and we will deal with that matter very promptly. The standard that I expect of public servants in the ACT government is that they will be prepared to own up to mistakes when they are made and to act appropriately to correct them when they are made. Unfortunately, I cannot rule out to this Assembly or anybody else that they will not be made in the first place, much as I would like to do so, but I do expect that when they are made, as they are from time to time, they are acted on promptly. Mr Speaker, I forget the other part of the question, but the issue—

Mr Stanhope: Will the review be undertaken?

MR HUMPHRIES: That is right. No, the review will not be undertaken because it already has been undertaken by the Auditor-General. His ranging over these issues was comprehensive—

Mr Corbell: No, he relied on the public service.

Mr Stanhope: He relied on Mr Tonkin. Look at the report.

MR HUMPHRIES: Mr Speaker, I think the issues were comprehensively covered by the Auditor-General. He produced, in case you had forgotten, and I do not think you had, 12 volumes of response to this issue which were tabled in this place.

Mr Quinlan: Still more could have been said, I think.

MR HUMPHRIES: I am sure still more will be said, Mr Quinlan. You will make sure of that, I have no doubt. I think it is fair to say that those issues have been properly covered. I do not propose to go back and do what the Auditor-General has already done.

Budget operating loss

MR HIRD: Seeing the opposition has touched on these matters, my question is also to the Chief Minister and Treasurer, Mr Humphries. There appears to be some continued scepticism about the true extent of the debt left to us by the Labor Party when it was in

office in 1995, by Mr Quinlan in particular. As I recall, Mr Quinlan, shadow Treasurer, offered to resign if an independent analyst showed that Labor had left a debt, an operating loss, of $344 million. Can you advise whether you have offered Mr Quinlan the opportunity for the ACT government to commission another independent study to confirm the Auditor-General's findings that the operating loss for 1995-96 was $344 million? Has the ACT government also offered the shadow Treasurer, Mr Quinlan, a briefing to address his concerns about this issue?

Mr Kaine: I take a point of order, Mr Speaker. Is this question addressing government policy by any chance?

MR SPEAKER: I will allow it. Once again, there were far too many questions in the question.

MR HUMPHRIES: It is frightening, isn't it? Fancy the people out there getting a say in what is going on in the territory. It is terrifying.

It is interesting, following from the first question in question time today, to see the wisdom of the Auditor-General in respect of the Bruce Stadium now comprehensively questioned when it comes to the territory's operating loss. Members will be aware that the Auditor brought down a report which indicated that the operating loss experienced for the 1995-96 financial year was $344 million, an operating loss almost certainly inherited from the former Labor government.

The fact is that Labor were abysmal financial managers of this territory. They racked up the territory's bankcard. They left us with a loss of at least $344 million. Of course, given the extent to which the territory in the first budget of the Carnell government was winding back expenditure and increasing revenue in the territory, it is fair to assume that the operating loss from the previous year was much higher than $344 million. But it remains the case that it was at least $344 million in the year in question.

We inherited a huge operating loss from the Labor Party—$344 million. Understandably, Mr Quinlan is unhappy with the Auditor's findings, even though the Auditor apparently holds great authority on other matters.

I have tried to resolve this matter with Mr Quinlan by offering him some way of being able to settle the matter once and for all. I have said to Mr Quinlan that, first of all, he is free to examine the books to determine how it is we might be in the position—

Mr Quinlan: You are misusing the figure you have. You are misleading people. It is dishonest.

MR HUMPHRIES: I ask that that be withdrawn, Mr Speaker.

MR SPEAKER: Withdraw that, please, Mr Quinlan.

Mr Quinlan: I seek your guidance, Mr Speaker.

MR SPEAKER: You may seek leave to make a personal explanation at the end of question time, if you wish. It will be granted.

Mr Quinlan: Wait a minute. Before I comply with your ruling rather than move dissent from it, I seek your guidance. If a member stands in this place and deliberately misleads, am I not entitled to say that he is misleading? If he is misusing figures, if he is using figures that are extraordinary items—

MR SPEAKER: I do not want you to debate it. You may make a personal explanation at the end of question time. You know I am always generous about those things.

Mr Quinlan: I withdraw, then, Mr Speaker. Thank you for your indulgence.

MR HUMPHRIES: We had an operating loss, as determined by the Auditor-General, of $344 million. I have offered Mr Quinlan access to the books to determine whether or not the theory which he has put out that in some way the books have been cooked, which I think is the implication, can be verified. Mr Quinlan has now received a large amount of information, and more is on its way.

Treasury departmental officials are now wasting what otherwise would be regarded as valuable community resources fishing out documents to satisfy Mr Quinlan's freedom of information request. Nonetheless, I think we all want to get to the bottom of this issue, so I am happy to provide that information.

I make a further offer to Mr Quinlan. Having the information on the table is one thing. Having it assessed is quite another. I am very happy for Mr Quinlan's claim that either the books have been cooked or the loss is not in fact $344 million to be tested by an independent firm of accountants in the ACT. Choose one of the major firms of accountants, and we will refer the issue to them and ask them to judge the matter as the Auditor-General has already judged it. I hope that if we are prepared to go to that extent Mr Quinlan will accept that both the Auditor-General and X major firm of accountants in the ACT cannot be wrong.

It is a mystery to me why in any case Mr Quinlan wants to bear so much personal responsibility for the financial blunders of his ALP forebears in this place. Nonetheless, he obviously does, and we will make sure the issue is properly ventilated.

I stand by that figure. I believe that proper verification will prove that the figure is right. I am prepared to apologise if I am wrong. I hope Mr Quinlan will be prepared to do the same.

Gungahlin Drive

MR CORBELL: My question is to the Minister for Urban Services. The minister has previously supplied information to the Standing Committee on Planning and Urban Services in relation to its inquiry into the Gungahlin Drive extension that the eastern option for the John Dedman Parkway was 4½ kilometres in length, whereas the western option was 4.2 kilometres. Documents obtained under freedom of information legislation by the Save the Ridge organisation have now revealed that the eastern option is actually 5.1 kilometres in length. As a result, the western option for the

parkway is now $1.16 million cheaper than the government's preferred eastern route. Can the minister explain to the Assembly why he mislead the standing committee on urban services as to the cost of the eastern route?

MR SMYTH: Mr Speaker, there was certainly no intention to provide misleading information.

Mr Hargreaves: Oh!

Mr Stanhope: A bit like not trying to mislead the Auditor either.

MR SPEAKER: Order! Settle down. Don't get excited. The minister has not even begun answering his question yet.

MR SMYTH: Mr Speaker, there was certainly no intention to mislead either the committee or the Assembly in any of the discussions on Gungahlin Drive. Mr Corbell has just inadvertently mislead the Assembly because I think he said that the difference between the two routes is now 1.6 kilometres. That also is not true. The difference between—

Mr Corbell: I didn't say that.

Mr Hargreaves: He didn't say that.

MR SMYTH: Well, he quoted a figure that was one point something kilometres. The actual gap between the two routes is now about 300 metres. This comes from an error in measurement. The distance for the eastern route was 4.5 kilometres. Further work was done and it became 5.1 kilometres, as is recorded in the email.

The FOI information provided to the Save the Ridge people did not reveal that the 4.2 kilometres length is in fact 4.8. There was an error in measurement in the length from Ginninderra Drive north to the Barton Highway. It was inadvertently measured and this accounted for the difference in both the measurements.

MR CORBELL: Mr Speaker, I ask a supplementary question. Does the minister now acknowledge that as a result of his actions he is totally discredited on this issue? What steps will he now take to, firstly, correct the record and, secondly, apologise to the standing committee for misleading it?

MR SPEAKER: You do not have to answer the first part of the question.

MR SMYTH: Mr Speaker, given that this is the first opportunity we have had to have a discussion about this in this place, I have put on the record what the differences are. Mr Corbell has told half of the story; he has not told all of the story. The difference between the two routes is about 6 per cent. I have asked about the costs and they remain the same because the original Maunsell work from which the costs came is accurate. That work measured the distance accurately at 5.1 kilometres and the costings were worked out on that figure.

Yes, I would apologise if there had been a mistake. That is something that this side does when we get something wrong. We actually apologise, unlike those on the other side of the chamber who make offers to resign if they are caught out and then fail to keep their promises.

V8 Supercar race

MR KAINE: Mr Speaker, my question through you is to Mr Smyth, as minister. It relates to a question that I asked the minister on 14 June about the GMC400 car race. That question was quite specific and it had to do with how many one-day, two-day and three-day tickets had been sold for this event, how those sales compared with last year's, and how many tickets were sold to spectators from interstate.

Mr Speaker, you will be aware that the standing orders of this place provide that, where a minister takes a question on notice, as Mr Smyth did, that he has 30 days to produce the answer. My question was asked on 14 June, so that 30-day period has long expired.

Minister, why are you seeking to avoid answering my simple and straightforward questions of nearly eight weeks ago, incidentally in breach of our standing orders? Secondly, will you provide the information now and, if not, why not?

Mr Moore: No, it is not in breach of standing orders.

MR SMYTH: Mr Speaker, I am not sure that this is in breach of standing orders. I am under the impression that the 30-day rule only applies to questions on notice.

Mr Moore: On the notice paper.

MR SMYTH: Questions taken on notice in question time should be answered as quickly as possible. When I have the audited final results, as I said, I will make them public. I am yet to receive those. They are due shortly and, when I receive them, not only will I give Mr Kaine his answer, but I will table them for the use of members in this place.

MR SPEAKER: I will just correct something. Standing order 118A, as I am sure Mr Kaine was just about to say, reads:

> If a minister does not answer a question on notice (including a question taken on notice during questions without notice) …

That is the situation.

MR KAINE: In the absence of any answers from the minister on these questions, I ask him whether it is a fact that the 2001 GMC400 car race, into which the Carnell-Humphries government has put many millions of taxpayers' dollars, and which the government has already admitted was attended by far fewer spectators this year than last, actually ran at a loss, and whether this is the reason that the minister has been attempting to hide the facts.

MR SMYTH: I am not attempting to hide anything. My memory is that last year, for instance, when we got all the reports, did the auditing and put the information together, that information was not tabled in this place until October. It is my intention to table it as quickly as I can, and it will be tabled before the end of this sitting.

Quamby Youth Detention Centre

MRS BURKE: My question is to the minister responsible for corrections, Mr Moore. Mr Hargreaves has revealed his lack of faith in the ACT corrections service by calling for the Quamby Youth Detention Centre to be removed from their responsibility. Can the minister tell this Assembly why the Youth Detention Centre was placed within the corrections service? Is there anything to be gained from the cost of shifting it from one department to another? Would there be any reason to criticise the care and education provided to youth detainees?

MR MOORE: Thanks for that question, Mrs Burke. Of course, it was Labor that originally moved the Youth Detention Centre across to Education and Youth Services. It was the coroner who in 1996 said, "This is the wrong way to go. It needs to be moved back into corrections." This was before I became minister. The government said, "We need to respond in a positive way." I recently appeared before the Justice and Community Safety Committee and they questioned me on how the department and minister had responded to the coroner's inquiry.

Ms Tucker: I take a point of order. This is an issue being looked at in the committee I chair. We have not reported on it at this point. I draw you attention to standing order 117.

MR SPEAKER: Thank you, Ms Tucker. Standing order 117 (e) (ii) says that questions shall not refer to "proceedings in committee not reported to the Assembly".

MR MOORE: I shall take care.

Mr Hargreaves: But the question did, Mr Speaker.

MR MOORE: No, we are now dealing with the answer. I think I perhaps strayed, although the standing order is about the question. I will be careful.

Mr Berry: Mr Speaker, the issue is not the answer; it is the question. The question ought to be ruled out of order.

MR MOORE: The question from Mrs Burke was simply about an announcement of the Labor Party, not about matters that were before a committee. The question was not to do with proceedings in a committee.

Mr Corbell: On the point of order: as Mr Moore says, it is a question about Labor Party policy. He is not responsible for Labor Party policy, and he cannot answer the question.

MR SPEAKER: No, indeed. I have to uphold that point of order.

MR MOORE: Before you do, Mr Speaker, it is important—

MR SPEAKER: Order! Ministers are not responsible for Labor Party policy. Furthermore, if the matter is before Ms Tucker's committee, then that aspect of it cannot be answered either.

MR MOORE: The standing order refers only to questions about proceedings within a committee. Very clearly, the question is not in breach of that standing order. Secondly, my response was generated by a Labor Party announcement. I do have responsibility for corrections. I am answering the question in terms of corrections.

MR SPEAKER: But not in terms of Labor Party policy.

MR MOORE: The question was about whether it is appropriate to keep Quamby within corrections. The coroner recommended that it was.

Canberra Means Business campaign

MR QUINLAN: My question is to the Minister for Business, Tourism and the Arts. I have recently noticed, Minister, a television campaign that advertises quite frequently about what government can do for business. More recently, I have received in my post office box something that says, "Canberra means business." I think it purports to be information for business but, in the main, it reads like a campaign document.

It talks about the government maintaining a secure and safe working environment, fighting crime and what the government can do for people generally. I know that you admire John Winston Howard, and it may well be that imitation is the sincerest form of flattery, but has the government recently taken the decision to spend taxpayers' dollars at a higher rate, close to the election, than it normally does, to inform its constituents what it can do for them? How much does the television campaign cost, how much have the glossies cost, and what else is being expended on the "Canberra means business" campaign at this time in the election cycle?

MR SMYTH: How anti small business those people on those benches opposite are, because whenever we do anything for the benefit of business—telling business what is available to assist them, what opportunities will exist in the future, or what government programs are there to help them—those opposite have to call into question the spending of the money.

I will find out for the member how much the campaign has cost, but the campaign is based on the fact that small business said they wanted to know what it was that government offered them. We actually speak to all sectors of the community, including the small business community, and what we have produced in the "Canberra means business" brochure is a comprehensive coverage of all the government programs, of opportunities that exist, and of areas from other departments that have input into making business more successful in the ACT.

This government is proud of the results that the small business community, in particular, has achieved in building up Canberra, in creating jobs, and in helping make up for Labor's $344 million deficit, which had accrued by the time they left government.

MR QUINLAN: I notice that the government also found it necessary to put out a huge advertisement, a notice to taxpayers about what taxes were reduced during the budget.

Mr Hird: Is he making a statement?

MR SPEAKER: Order! Continue with the supplementary question.

MR QUINLAN: Harold, give me a break. Minister, are there any other TV campaigns, publicity or glossy issues planned by your department between now and the caretaker period, or now and the election?

MR SMYTH: Mr Speaker, the program of initiatives to help small business has been a fundamental point in what this government has sought to achieve over the last six years. It is curious: my memory of these brochures is that, when they were put out under the previous government, they included glossy pictures of the ministers. This is strictly a document that outlines—

Mr Quinlan: We caught you on that one. That was the housing document.

MR SMYTH: Exactly.

Mr Quinlan: Six, wasn't it, in four pages.

MR SMYTH: The programs that we offer, the opportunities that exist, where there is a relationship with other departments and how they can assist. It is appropriate for the government to be telling the small business community these things, because they have actually asked us to do this in meetings. If those opposite had ever met with them, they would have said to them, "We want to know about what programs you offer us."

This is responding to a need that the business community itself discussed with the government. We will continue to make sure that we make appropriate information accessible to the small business community, because it is doing its part in creating jobs and building up assets in the ACT and, through the charges that it pays, making up for the $344 million deficit that those opposite left us.

MR SPEAKER: Mr Berry, just before you ask your question, I wish to recognise the presence in the gallery of two senior officials from the Ministry of Justice and Human Rights in the Republic of Indonesia, namely Mr Suharyono and Ms Etty Suryati. They are respectively Senior Officer of the Director-General of Legislation, and Senior Officer of the Director-General of International Law. Welcome to the Assembly.

Williamsdale Quarry

MR BERRY: Mr Speaker, my question relates to the Williamsdale Quarry. I refer the Chief Minister to page 2 of his legal advice, which he circulated on 18 July 2001 and which he relied on heavily. The advice states:

> There are some sections of the TOC Act—

meaning the Territory Owned Corporations Act—

> which might have some application. They are:
>
> Sections 16 and 25. A TOC may not acquire or dispose of a "significant asset", or create a security interest over a "significant asset" without the consent of the Territory (through the voting shareholders).
>
> Whether or not the proposed participation in a quarry will involve a "significant asset" can at this stage remain unanswered.

It goes on:

> Suffice it to say that, if you have Territory approval to acquire an interest in the quarry, the only issue that need concern you is that, if development finance is to be obtained externally, granting any security interest to a development financier will itself require the approval of the Territory (again through the voting shareholders).

Section 16 of the TOC Act relates to "Acquisition and disposal of subsidiaries and undertakings" and section 25 relates to "Borrowing otherwise than from Territory".

Chief Minister, Totalcare through its subsidiary entered into financing arrangements of over $6 million with at least one development financier. Did the Chief Minister give consent pursuant to sections 16 or 25 of the TOC Act? If so, under which provision or provisions, and will the Chief Minister table the documents?

MR HUMPHRIES: Mr Speaker, the transactions in question may well have occurred over the last couple of years. I do not know whether at the required time I was Chief Minister or Mrs Carnell was Chief Minister. I have no doubt that, if approval was required at any stage, the approval was obtained in accordance with the TOC Act and the decision was taken by Totalcare in light of the advice that they received.

The advice is good advice. I heard some snide remarks made as Mr Berry introduced his question about: "How much did you pay for the advice?"

Mr Berry: It is a bit thin.

MR HUMPHRIES: It is a lot thicker than the advice you tabled at the same time as you raised this issue originally.

Mr Stanhope: His was relevant.

MR HUMPHRIES: You can attack lawyers if you want, Mr Stanhope, but the fact is that that advice is good advice. You tell me where it is wrong and I will take it up with the people who commissioned it, namely, Totalcare.

Mr Stanhope: It does not apply to the point. Actually do that—get advice on the point.

MR HUMPHRIES: Mr Speaker, Mallesons is one of the premier national, indeed international, firms of lawyers in—

Mr Stanhope: They didn't advise on section 16 (4), did they?

MR HUMPHRIES: If you think they gave the wrong advice, you get up and tell me why it was the wrong advice.

Mr Berry: Mr Speaker, on a point of order: I just want to know whether the Chief Minister will table the documents.

MR SPEAKER: No, you want to know a little more than that.

Mr Berry: And I want to know—

MR SPEAKER: You are being inhibited by some of your colleagues' constant interjections.

Mr Berry: In particular, giving consent pursuant to sections 16 and 25. I think he has told us he does not know.

MR SPEAKER: The minister is well aware of the question, thank you.

Mr Berry: It is under what provision? Will he table the documents?

MR SPEAKER: Sit down, Mr Berry.

MR HUMPHRIES: Mr Speaker, I will take on notice the question of whether there was an approval required, an approval sought and what approval was obtained. If there was an approval given, I will certainly table it.

Despite its narrowness, the question ranged over a number of things. I want to put on record that the advice received from Mallesons was, as far as I can determine, quite sound advice; and the process used by Totalcare was, as far as I am able to determine, entirely within the law. If Mr Berry wants to continue to run around arguing that Totalcare or the government or the minister has broken the law, I suggest he substantiate those claims rather than simply make them in the random way that he has done today.

MR BERRY: Mr Speaker, I ask a supplementary question. By chance, did the Chief Minister perhaps notice in the context of this question the failure of the government to comply with the same section of his legal advice, which states:

> In the case of either an acquisition or the creation of a security interest over a "significant asset", the terms of any approval given by the Territory must be laid before the Legislative Assembly.

Did you happen to notice that part of the legal advice? Did you happen to notice whether there had been any attempt to comply with it?

MR HUMPHRIES: Mr Speaker, this is the same question that Mr Berry has already asked. I will give him the same answer that I gave him before.

Mr Berry: No, no.

MR HUMPHRIES: It is the same question. Mr Speaker, it is fine for us in this place because we are pretty used to accusations flying around like confetti that people have broken the law. But other people are casualties of this process, particularly officers in Totalcare who, by obtaining that advice some time ago, were prudently taking the precaution of ensuring that they did not break the law. They acted in accordance with that advice. The people who get hurt in the accusations that Mr Berry throws around this place appear to matter very little in the scheme of things when he gets on the radio and television and says that there has been a breach of the law.

Mr Berry: There has been.

MR HUMPHRIES: Mr Speaker, I do not think there has. I have sought advice from the Government Solicitor. When that advice comes back, if I am wrong I will live by that advice. All I ask is that Mr Berry do the same thing.

Mr Berry: The Government Solicitor has been wrong before.

MR HUMPHRIES: If the Government Solicitor tells us that this venture has been legally entered into then I would expect Mr Berry to come into this place and apologise to the people in Totalcare whom he has accused in this matter.

We just heard an interjection that the Government Solicitor has been wrong before. Perhaps you are not quite sure of your legal advice anymore. The government system might be wrong, I hear Mr Berry say. Shall we go somewhere else for the advice? Whose advice will you accept, Mr Berry? You have had your own firm of solicitors give some advice, I might say based on bad information. But the fact is you have to accept someone's advice independently at some point in this matter. So if Mr Berry is prepared to make the accusation, he should be man enough to acknowledge he has made a mistake if the advice comes back independently to suggest that he is wrong.

Drug Policy

MS TUCKER: My question is to the Chief Minister. In a media release on the issue of a referendum on drug policy you released today you make reference to the AMRS survey of 415 households and claim that it demonstrates that Canberra people are well educated about drug issues and there is a strong community feeling about the matter. Are you aware that despite advice to the contrary the people surveyed were specifically asked whether they supported a supervised injecting room or shooting

gallery? I am interested to know whether this is the language you would use in a referendum. If not, why not?

MR HUMPHRIES: If Ms Tucker had read the paper today she would see that that is not the language we are proposing to use in this referendum. The question of the wording of the referendum is still a matter for the Assembly to determine, so I cannot at this stage be definitive about what kind of language might be used. Ultimately the question is in the hands of all the members of this place, including you, Ms Tucker.

Mr Kaine: I thought Mr Moore had already decided what the questions were going to be. He said so in the paper.

MR HUMPHRIES: No, he has not, Mr Kaine, any more than you have apparently. I do not cite the survey to which you refer as evidence of a particular point of view. I am not saying that this proves people are in favour or against any of the three proposals that were put to people because I acknowledge that the language used has a very clear impact on the sort of answer you might receive. I simply make the point that in being asked those questions, over 90 or 91 per cent of the people who responded came back with a clear view about these issues. There was not this sense of: "I don't know. I don't know enough about this question. I need more information. I cannot make a decision." It was a clear indication that—

Ms Tucker: I take a point of order, Mr Speaker. Under standing order 118, we do not need to debate the subject. I am interested in the answer to the question on the language. That is all I have asked. Would he use that language?

MR HUMPHRIES: Mr Speaker, I am entitled to say more than just simply yes or no, and I will do that.

Ms Tucker: That is debating the question.

MR HUMPHRIES: Mr Speaker, that is not the case. You put to me in your question that people could be misled by the way in which the questions are put, and I am putting to you that that could be the case, but that the reason for which I was citing that survey was to demonstrate that people have strong views about this. They are competent enough to say to a stranger who rings them and asks them for their opinion, "I believe I know the answer to the question you are asking." I realise that you believe that these things are too important, too complex, for people in the ACT to be able to understand.

Ms Tucker: Mr Speaker, on a point of order: could I have your ruling on this? Standing order 118 (b) says, "shall not debate the subject". I am not interested in what Mr Humphries thinks, and my question was not about the question of the referendum or how strong the community feeling was. My question was: would you use this sort of language in a referendum? That was my question.

MR SPEAKER: I think that aspect has been answered.

Ms Tucker: Well, it's fine for him to finish then. I am not interested in a debate.

MR HUMPHRIES: Mr Speaker, she raised other issues in the course of her question. It has never been the rule in question time that you cannot respond to the other issues raised, and that is what I am doing. It has happened every day that we have had question time in this place since you have been a member, Ms Tucker. I am sure you have noticed that fact. If I am required only to answer the questions that are asked of me then, with great respect, people should not ask questions with other things in them.

Ms Tucker: On that point, Mr Speaker, it is also my understanding under standing order 118 (a), and we had a discussion about this in the Administration and Procedure Committee, that the answer shall be concise and confined to the subject. I am trying to make that point because—

MR SPEAKER: Yes, but at the same time I have ruled repeatedly that you cannot ask a question and demand a yes or no answer from a minister.

MR HUMPHRIES: Mr Speaker, your predecessor, Ms McRae, made it very clear that "concise" does not mean short. It simply means to the point. I am answering directly to the point of the issues raised by Ms Tucker and saying that I think the people of this community are sophisticated enough and educated enough to be able to understand, at least between now and 20 October, what these issues mean for them and their community and make a considered balanced view about them. I am a small "d" democrat at heart. I believe in the capacity of people to make decisions on these matters. I will respect the judgment that the people pass on these issues if they are given the chance.

MS TUCKER: My supplementary question is this: Mr Humphries, have you sought advice on how such push polling can corrupt any future referendum on the same question? If so, what was that advice? If you have not sought that advice, why not?

MR HUMPHRIES: Mr Speaker, the government is in the process of putting to the Legislative Assembly what it wants to do about these issues. On Thursday the Attorney-General will present a bill to allow for a referendum. The form of questions that will be put to the people if the referendum is approved is in the bill. I think it is in clauses 7 and 8 of the bill. Ms Tucker asked me in the first question what the questions are going to be. Well, she saw them if she bothered to read today. If she believes it is push polling, then she should support the legislation and amend it to make sure it does not amount to push polling. Ms Tucker, like the Labor Party, has said, "We don't believe in this. We are not going to support this, so we are going to step aside—

Ms Tucker: Mr Speaker, on a point of order: seriously, I do not think Mr Humphries heard my question. Am I allowed to repeat it?

MR SPEAKER: Mr Humphries understood the question.

MR HUMPHRIES: Mr Speaker, we will put to the Assembly the questions we propose to ask. If they amount to push polling at the end of day it will be because the Assembly determines that that should be the case. I am confident that this Assembly can make a rational decision about these matters, and I am even more confident that the people of this city can make a rational decision about the issues if they are put before them in the form of a referendum.

Public housing

MR HARGREAVES: My question is to the minister for housing. Minister, section 68 of the Residential Tenancies Act 1997 sets out the definition of an excessive rent increase. It states that rents in excess of 20 per cent greater than CPI need to be justified by the lessor. According to the latest CPI figures from the ABS, the upper limit on this increase is marginally over 5 per cent. Hence, the average rent increase of 9.8 per cent that you boasted of so proudly in your press release is nearly double the reasonable level. I will be interested to hear the justification.

Minister, I have been contacted by tenants who are facing increases of $20 to $40 a week on poorly maintained properties and who are now going to fight these increases in the tribunal. Today's *Canberra Times* has a letter to the editor written by a woman who has been forced to leave her ACT Housing home because of the rent increase. She was on the enormous annual salary of $27,000.

Minister, you said that the ALP opposed what you called a "rent redistribution to help the least well off". I can assure you the ALP does oppose a rent redistribution that takes from the poor and gives to the poverty stricken. As the writer of the letter says, "How is this fair Mr Minister for Housing?".

Many of the increases are clearly excessive, according to this act. As the largest landlord in the ACT and as a landlord subject to the provisions of the act, why have you ignored the provisions of this act and proceeded in this manner?

MR MOORE: Mr Speaker, because the law requires me to do it. It is very clear, under legislation, what I am required to do. That is what has been conducted. The act to which you refer also allows appeals under that circumstance. As you point out, there will be a number of people who make appeals.

Often, Mr Speaker, you hear stories that seem terrible but in fact are not the reality. So let me use as an example Ms Nicol who wrote to the *Canberra Times* this morning. Ms Nicol rented an ACT Housing two-bedroom townhouse at 22 Osborne Place, Belconnen. The market rent for the property was $159 per week.

Mr Speaker, I wouldn't normally do this, but when the person raising the issue misrepresents things then she opens herself to the facts of the matter. The level of Ms Nicol's income entitled her to receive a rental subsidy. She was therefore charged a reduced rent of $123.30 per week. This subsided rent was equivalent to 25 per cent of Ms Nicol's gross household income.

Ms Nicol seems to be claiming that ACT Housing should be charging rent based on net income rather than gross income.

Mr Corbell: This is disgraceful. You are a custodian of people's private information.

MR SPEAKER: I warn you, Mr Corbell.

Mr Corbell: This is disgraceful.

MR MOORE: Does your warning mean anything or not, Mr Speaker?

Mr Corbell: You are a custodian of people's information.

Member named and suspended

MR SPEAKER: I name you, Mr Corbell.

Question (by **Mr Moore**) put:

> That Mr Corbell be suspended from the service of the Assembly.

A division having been called, and the bells being rung—

Ms Tucker: Mr Speaker, can I ask for clarification on what just happened, because I. don't know what just happened. Did you name Mr Corbell?

MR SPEAKER: Mr Corbell was warned for interjections. He did not stop and I named him. The normal procedure was followed—a warning followed by naming.

The bells continuing to be rung—

Mr Hargreaves: If you want to back down on this one, withdraw that motion.

Mr Moore: Piss off.

Mr Hargreaves: Don't tell me to piss off either.

MR SPEAKER: Order, Mr Hargreaves!

Mr Hargreaves: Mr Speaker, I have been told to piss off, and I will respond to it.

MR SPEAKER: I won't have that language used in the chamber.

Mr Hargreaves: I will treat the remark with the contempt that it deserves.

MR SPEAKER: If that language was used by either side—and I presume you were responding, Mr Hargreaves—I want it withdrawn.

Mr Hargreaves: It was.

MR SPEAKER: I want it withdrawn from the government side, please. I want the expression withdrawn.

Mr Moore: Which expression is that, Mr Speaker—"piss off"?

MR SPEAKER: Yes.

Mr Moore: I withdraw the fact that I told Mr Hargreaves to piss off.

MR SPEAKER: Mr Hargreaves, would you withdraw too, please.

Mr Hargreaves: Could you tell me what I should withdraw? Are you asking me to withdraw the fact that I told him to piss off or that I am responding to it? I withdraw the fact that I told him that I would respond to him telling me to piss off, because it was unbecoming.

MR SPEAKER: Thank you. We have nine fascinating days of sitting to go before we rise for the election. It might be a very good idea if everybody here behaved as adults that people want to vote for.

The Assembly voted—

Ayes, 10		Noes, 6	
Mrs Burke	Mr Moore	Mr Berry	Mr Wood
Mr Cornwell	Mr Rugendyke	Mr Corbell	
Mr Hird	Mr Smyth	Mr Hargreaves	
Mr Humphries	Mr Stefaniak	Mr Quinlan	
Mr Kaine	Ms Tucker	Mr Stanhope	

Question so resolved in the affirmative.

Mr Corbell thereupon withdrew from the chamber.

Questions without notice

Public housing

MR MOORE: Mr Speaker, members have raised the issue of my using Ms Nicol's address. Ms Nicol has now moved from that address, so it does not breach her privacy in that sense. I had intended to ask leave to have her address struck from the *Hansard*, but I think that would be irrelevant. If members would still like the address to be taken out of *Hansard*, it can be, but it is irrelevant because she has now moved.

It is worth reminding members that in Letters to the Editor this person mentioned the percentage of her wage and misrepresented the actual facts of the matter. Therefore, Mr Speaker, I am going to correct those. ACT Housing charges rent in accordance with the requirements of the public rental housing assistance program. The program requires the calculation of rent to be based on gross income, and it would appear that she has a different view.

Her tenancy ceased on 26 July 2001. It is interesting that she notified ACT Housing of her intention to terminate the tenancy on 5 July, almost two weeks before she and other public housing tenants were notified of ACT Housing's intention to increase market rents. It therefore seems unfair of her to suggest that the impending rent increase, of which she knew nothing at the time, was the cause of her terminating the tenancy. Ms Nicol claimed that she received rent assistance from Centrelink once she began to rent in the private market. Such assistance is not available to public housing

tenants, as the Commonwealth and the ACT governments already provide eligible public tenants with similar assistance in the form of rebated rents.

Mr Hargreaves—through you, Mr Speaker—when somebody receives a rebate it means that the maximum they are paying is 25 per cent of their income. Therefore, even though we increased the rent—as we are required to do under legislation—it will not increase for people who are paying 25 per cent of their income unless their income increases.

So, if Labor seriously feel that there is something wrong with the program and what has just occurred, they need to change the legislation. This is an equitable way to operate; it is required under legislation for very good reasons. We are required to review the level of rent each year, and that happens. It is done on a suburb-by-suburb basis, but sometimes, as is the case with rates as well, an anomaly occurs in an area and the increase is inappropriate.

That is why we have the review process that Mr Hargreaves described. In fact, ACT Housing also wrote to people and said, "Look, if that happens come and talk to us first. If we can identify an anomaly, let's sort it out. But if it's not the case, that won't interfere with your right to go to the tribunal." It is a fair and equitable process.

MR HARGREAVES: Mr Speaker, I have a supplementary. Since the minister has just admitted that he has been in breach for the last four years by not doing anything and since, according to national figures, the ACT has the third highest private rents in the country, beaten only by Sydney and Darwin, and since this is causing great hardship in Canberra, adding to the number of people seeking emergency housing, why—a commencing question—isn't the government—

Mr Moore: Point of order, Mr Speaker!

MR SPEAKER: I understand. No supplementary has a preamble, Mr Hargreaves.

MR HARGREAVES: Mr Speaker, I have no preamble.

MR SPEAKER: Just ask the question, please.

MR HARGREAVES: I have no preamble, Mr Speaker.

Mr Smyth: Mr Speaker, if that is not a preamble then it is a statement. That is also out of order, which means he has no supplementary. He should sit down.

MR HARGREAVES: Mr Speaker, a preamble does not start with the word "since".

MR SPEAKER: Just ask the question.

MR HARGREAVES: Thank you, Mr Speaker. Why isn't the government acting in a responsible manner to protect low income earners by responsibly increasing rents according to the Residential Tenancies Act formula, instead of jumping onto the inflationary bandwagon of excessive rental increases?

MR MOORE : We are required by law to do it that way.

Mr Hargreaves: You have not done it for four years.

MR MOORE: Mr Hargreaves said we have not done it right for four years and, in fact, we have. ACT Housing has done the review it is required to do. There was some confusion over a press release that I issued, in which the word "review" can be interpreted in two ways, and I clarified that as soon as it was drawn to my attention following a statement I made on radio. That has already been clarified.

The reality is that Housing has been acting as is required by the law, review processes are in place and a system for protecting those who are most in need is in place. Nobody pays more than 25 per cent of their income in ACT public housing. That is the crunch; that is what is happening. For you to try to present this as something else is appalling. It is simply trying to jump on a bandwagon.

There is a system in place to allow a review should there be an anomaly—and we expected that there would be some, as there always is with rates, as well. In fact, Housing have gone further, saying, "You do not even have to go through that. Come and talk to us first, and we may be able to sort it out." That is an appropriate process, it is according to the law and it does not affect people on low incomes.

Public housing

MR WOOD: Mr Speaker, my question is to Mr Moore and is also on housing. Minister, your office has been informed several times over some weeks of an ACT Housing property in Oxley that has been vacant for a long period. The property, the subject of a story in today's *Canberra Times*, has become derelict, its windows have been smashed, it is unsecured and people are holding loud, drunken parties on the front lawn. Unsavoury people keep showing up at the property, causing trouble in the area and grief to other residents.

Both your office and ACT Housing were notified of the problem. I know the actions of an irresponsible tenant were not helpful, but I ask: why has nothing been done to secure the property long after the problem was first known?

MR MOORE: We manage over 11,000 properties. We were aware of some problems with this property and we are pursuing that. I will come back to Mr Wood with further information.

MR WOOD: I have a supplementary. Given that Canberra has a priority list of people waiting for public housing—segmented into "early allocation 1" and "early allocation 2"—as well as a normal waiting list, why has this property been vacant well beyond the period made necessary by any obligations on the part of Housing?

MR MOORE: Mr Speaker, when I provide the actual response to Mr Wood, I will also provide a response to that. Following question time, Mr Wood will be interested in a question I took on notice from Mr Osborne. In fact, I might use this opportunity to table my response to Mr Osborne now. He asked me about waiting times and allocations for people who are in the early and also standard allocation category in

Tuggeranong. Rather than reading out all of those—they are a set of tables—I will table them for the interest of members.

MR SPEAKER: Thank you.

MR MOORE: For Mr Osborne's information, it was a response to a question I was asked on 20 June. I present the following paper:

> ACT Housing—
> ACT Housing's Applicant Services Centre—Waiting time for appointments; and
> Tuggeranong Area—Waiting times for all types of accommodation—
> Answers to questions without notice asked of Mr Moore by Mr Osborne and taken on notice.

Wheelchair accessible taxis

MR RUGENDYKE: My question is to the Minister for Urban Services. Minister, recently I brought to your attention details of an incident involving Canberra Cabs, when a wheelchair passenger was left stranded for an hour and a quarter on a Sunday afternoon while waiting for a wheelchair accessible taxi. At the time there were 11 WATs on the road doing other things, and only one was doing an official wheelchair job. I remind you that criterion 1 of the wheelchair taxi licence application states:

> You will ensure that the driver of the wheelchair accessible taxi will always give preference to hiring by a person in a wheelchair, irrespective of how the offer of hire may be made.

Minister, since Canberra Cabs have washed their hands of any responsibility in this area, what investigation and/or action has been taken by the government department that issues these licences in response to the failure of Canberra Cabs to have their drivers honour criterion 1?

MR SMYTH: Mr Speaker, we are aware of the situation that Mr Rugendyke mentions. The whole point of the government's initiatives on wheelchair accessible cabs is that those who need to travel in such a vehicle should get the same level of service as those who do not. That is why we have now got 26 WAT plates out and we are looking at how best to utilise them.

Mr Rugendyke's question is about what we can do. What we have done is speak with the drivers of wheelchair accessible vehicles when we think they have not been meeting their obligations, and in two instances drivers have been fined. But we need to be able to do more. We would like to have codes, which will be part of the legislation I am bringing forward shortly in regard to the taxi network, that would give us even greater powers to revoke licences and put heftier fines on people.

MR RUGENDYKE: I have a supplementary. Minister, it has been suggested in the media by WAT owners that they find it difficult to find drivers who are willing to drive their vehicles. What is the government doing to ensure that WAT licences are being issued to people—of course, at the discount rate—who are committed to delivering the service according to the conditions of the licence?

MR SMYTH: Mr Speaker, the government is committed to seeing the WAT plates used appropriately. That is the purpose of them: they are there to look after those who need a wheelchair accessible taxi. Our dilemma is that Canberra Cabs have been failing to direct those cabs, which has resulted in their not being able to meet the requirements as set out in the agreement, and Yellow Cabs have said that they will physically direct drivers of the nearest wheelchair accessible cab to answer these calls, which was the intention of issuing the extra plates.

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

Answers to questions on notice

MR KAINE: Mr Speaker, under standing order 118A (a), I ask the Minister for Business, Tourism and the Arts for an explanation as to why he has failed to answer questions taken on notice. To recapitulate, on 14 June I asked the minister questions about the GMC400 car race. He took those questions on notice, and the fact that he took them on notice is recorded in the *Hansard* for that day. In accordance with standing order 118A (a), the minister should have responded to those questions by the middle of July. As of today, he has failed to do so. I gave him another opportunity to answer them during question time, and his comment boiled down to the fact that he would give me the answers at some unspecified time in the future.

Mr Speaker, I submit that the minister is in breach of our standing orders, and I would like an explanation from him as to why he has chosen not to answer my questions, given that this is a matter of public concern. Some $23 million worth of public money has been injected or will be injected into this event, and I think the people are entitled to know the outcome, financially, of each annual event. I would like an explanation from the minister first of all of why he did not answer my question at the due time and, secondly, of why he continues to refuse to answer.

MR SMYTH: Mr Speaker, I am happy to reiterate what I said in my answer to the question, which Mr Kaine obviously failed to hear. I did take the question on notice and, as soon as I have the final, accurate, audited figures, I will table them in this place. I expect to do so before the end of this sitting period, but I cannot give Mr Kaine something I do not have.

MR KAINE (3.38): The minister has again declined to answer and merely says he will answer at some time in the future, which is not his prerogative under the standing orders. I move:

> That the Assembly takes note of the explanation.

The minister has had ample opportunity to respond to these questions, and it is not as though the matter is trivial. It is not trivial; it involves a great deal of public money. The minister is obligated under our standing orders to answer a question that he took on notice. Presumably he took those questions on notice knowing that there was a responsibility on his part to respond to them.

I find the minister's explanation of his failure to respond to these questions and his continuing failure to respond to them to be unconvincing, unsatisfactory and unacceptable, and I think the Assembly ought to agree with that proposition.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (3.39): Mr Speaker, I want to speak briefly on this matter. Mr Smyth has not produced the figures Mr Kaine has asked for. There is no dispute about that. He asked for them some time ago, and they have not been produced. The reason Mr Smyth has not produced the figures is that, in effect, they are not yet there.

Mr Berry: Oh yes they are!

Mr Kaine: They're still trying to cook the books, are they?

MR HUMPHRIES: I am advised that the audited figures have not yet been produced. If unaudited figures were produced and then audited figures were produced that in some way differed from the unaudited figures, there would be an issue. Comments such as: "Oh look, the government's cooking the books" would be made, and to avoid that it is quite appropriate for the minister to table accurate figures. I am sure Mr Kaine is after accurate figures, and the most accurate figures are the audited figures.

It does raise the issue of how one can comply with a requirement to answer a question within a certain period of time if the information being sought is not yet available. If, for example, someone were to ask Mr Stefaniak today for the results of the ACT election on 20 October, he would be unable to comply with the standing orders.

Mr Stanhope: He could give a rough estimate. He could give a pretty fair guess.

MR HUMPHRIES: Your confidence has been noted, Mr Stanhope. The fact is that it would not be possible to provide the election results, and I think this is a similar case. The figures cannot be provided until they are properly produced and verified. In this circumstance, Mr Smyth should be forgiven for not being able to comply with the standing order because of the inability to do so reliably.

MR BERRY (3.41): It must have been about a month ago that I called for the release of these figures, and the response, basically, was: "We'll release them when we're ready." Strong rumours abound that the numbers at the V8 car race were significantly down. Mr Kaine asked a reasonable question about the tickets that were sold. I can understand why the government would not want to release those figures before they are audited: if they are bad once, when they are audited they are going to be bad twice. There is little point in the government releasing these figures.

It became quite clear to me whilst the V8 car race was on that there were reasonable suspicions that the numbers were down. In fact, I was informed by somebody expert in these matters that we ought to expect the numbers to drop in the second year. None of this was factored into the government's accounting when it came to finding the money for the V8 car race.

Mr Stanhope: This isn't the business plan?

MR BERRY: The two-page business plan? Mr Speaker, nobody is more disappointed than we are that this is not going well for the government because we think it had the potential to do good things for the territory. We said at the time that we were doubtful about the government's ability to manage this event, and I am afraid that what we predicted is starting to come true. For example, $1½ million extra per year has been approved by this Assembly because the government failed to factor in certain matters related to capital works and other improvements in the V8 car race. The territory has had to pay for that.

We know that $1.4 million is paid as an administrative fee to the organisers of the race. Nobody will tell us how much of that goes to the organisers, AVESCO. Something between zero and $1.4 million goes to AVESCO every year, but nobody will tell us. I reckon we are entitled to know that. I reckon that, as taxpayers, people in the community might like to know that as well. So, we have got $1½ million extra a year and something between nought and $1.4 million going to AVESCO.

We have got a specific question from Mr Kaine about ticket numbers, and we have got the government saying, "We're not going to tell you until we've got them audited." I go back to what I said earlier: they are not going to tell us before they have got them audited so that we do not get two lots of bad news. If they release the figures on the tickets, there are reasonable expectations that the numbers will be down.

Nobody gets any joy out of that, least of all the territory taxpayer. But the questions it raises are: what happens in the outyears to this event, are we going to be asked for more money or will the government say they are not going to spend any more on it? Well, if they do not spend any more on it something is going to happen to the event.

Or are we going to get half a Floriade? If they are going to say to CTEC, "You mucked this up; you can pay for it yourself," we will get half a Floriade, or we will get one Floriade every second or maybe every third year. What is going to happen? These are the issues the government is now wrestling with in relation to that matter, and the failure of the minister to answer Mr Kaine's question has highlighted the issue. There are other strong rumours around that the media will report on this tomorrow. Wouldn't that be interesting in the context of the minister's failure to answer.

There are some important things about this V8 car race, and the most important of those is the inability of this government to manage—Bruce Stadium, Kinlyside, Feel the Power. You can hear the tom-toms. This is just another example of where the territory is being let down by an incompetent government—one, it now appears, that will not give us the facts and figures. We are going to have to pull teeth to find out a bit more about it. The Williamsdale Quarry, the rock concert, disability—the list goes on.

Mr Speaker, this is an important issue. The minister has been caught out for failing to answer. He has not failed to answer because he has not got the figures; he has failed to answer because he does not want to give us the information. They are going to try to delay it until they get the audited figures ready so that they only have to give them to us once. If they give them to us twice we will be disappointed twice, and I do not think the government wants to do that in this, an election year.

MR SPEAKER: We might have to use the call-in power.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.47): Mr Berry forgets. He says there are rumours that the numbers that attended are down. Well, he is wrong. It is not a rumour; it is the truth. The head of CTEC, Mr Service, put those figures out on the Monday following the event. We know that it was 109,000 last year and 101,000 this year. It is down 7.3 per cent, Mr Berry. It is not a rumour.

What I am waiting on are the reports that need to come together to give the full picture. Last year, that work was not available until October. As I said earlier today, I hope to table it before the end of this sitting session. I have just received some advice from my office. It is not the audited figures; it is the figures that will be complemented by the three reports that are all now in. The answer will be in this place on Thursday.

MR MOORE (Minister for Health, Housing and Community Services) (3.48): Mr Speaker, I would like to compliment you on the change to standing orders. Mr Kaine will remember that standing order 118A was introduced by the current Speaker. Some people have said that Mr Smyth is in breach of standing orders. No, he is not in breach of standing orders. The standing orders give Mr Kaine the opportunity to ask Mr Smyth why he has not provided an answer and then to debate that—which you have used to good effect, Mr Speaker.

It has reminded me of how effective standing order 118A is in dealing with these sorts of issues and how much pressure it puts on ministers to answer their questions within 30 days. Other members may not recall this, but the reason this was put in was that, when Labor were in government, Labor ministers were tardy at providing answers. This has made sure that answers are given, no matter who is in government, and that they are given in 30 days. There is a penalty to be paid when you do not, and Mr Kaine has illustrated that really clearly.

MR KAINE (3.49), in reply: I have to acknowledge that the Speaker does get it right occasionally.

Question resolved in the affirmative.

Personal explanation

MR QUINLAN: Pursuant to standing order 46, I seek leave to make a personal explanation.

MR SPEAKER: Do you claim to have been misrepresented?

MR QUINLAN: Yes.

MR SPEAKER: Please proceed.

MR QUINLAN: Thank you, Mr Speaker. I have been represented in this place as saying that I will resign from the Assembly if the government proves these figures to be true. That is not exactly the case. What I really said about these figures is that the

$344 million first of all contains $91 million worth of extraordinary items. It therefore cannot in itself be representative of anything, so I think it is quite clear—

Mr Humphries: I rise on a point of order, Mr Speaker. Mr Quinlan claims to have been misrepresented on the question of whether he would resign or not. If he can clarify that aspect, I am happy to hear that. But if he wants to now debate the $344 million, he should do so in a context other than a personal explanation.

MR QUINLAN: Could I just quote the Chief Minister? I am entitled to say a little bit more then yes or no.

Mr Humphries: In answer to a question you can. You are not being asked a question.

MR QUINLAN: I am just trying to put the statement that I made on the record so that you will not persistently mislead this place about what I have said.

Mr Humphries: Yes, but you cannot debate it.

MR QUINLAN: I am just pointing out the fact that this figure, which occurred in a Carnell year, is inflated by $91 million. Therefore, every time it is used it misleads the public and it misleads this place.

Answers to questions on notice

MR WOOD: Mr Speaker, I do not want a debate on this if I can avoid it. I simply want to nudge the same minister on question 370, which remains unanswered after a very long period. Thank you.

MR SPEAKER: Order! Mr Smyth, do you want to respond to Mr Wood's question?

MR SMYTH: Thank you, Mr Speaker. The answer to question 370 is with the chamber support area. It is on its way.

Questions without notice

Gungahlin Drive

MR SMYTH: Further to my answer to Mr Corbell, I have some additional information. The proposed Gungahlin Drive extension has been and remains a significant element of the city's urban infrastructure. The Save the Ridge group has raised some questions in relation to the Gungahlin Drive extension and the detailed analysis of the eastern and western route options. I think it would be helpful to the Assembly if I provide a brief statement on some of those things.

Let me assure members that there has not been any deliberate misleading of the Assembly. I am informed by the department that a human error was made in the measurement of the northern section of the proposed Gungahlin Drive extension. This northern section of the proposed route is common to both routes and is not in contention at all.

My written advice to the Planning and Urban Services Committee on 20 November last year reflected that human error. However, the crucial point is that this error has no effect on the comparison of the two routes or their relative distance and cost. Mr Speaker, I would be pleased to have departmental officers provide further briefing to members of the planning and urban services committee or any other interested member of the Assembly.

It is not surprising that groups like Save the Ridge will continue to strongly present their own point of view. However government is elected to make decisions in the best interest of all Canberrans. It is unfortunate in this instance that they have drawn some inaccurate conclusions about costs. I would also be pleased to make available senior officers of the department to speak to the Save the Ridge group to clarify any misunderstandings that may exist.

Weighing up all the factors, including transport efficiency, impact on the environment and city structure, the eastern alignment remains on balance the preferred option for the community. The community at large expect government to take responsibility and make balanced decisions on their behalf. The city needs a road system to meet the needs of the people of Gungahlin and not another inquiry, as suggested by the Save the Ridge group.

Papers

Mr Speaker presented the following papers:

> Legislative Assembly (Broadcasting of Proceedings) Act—
> Pursuant to section 8—Authority to broadcast proceedings concerning:
>
> > The public hearings of the Standing Committee on Education, Community Services and Recreation in relation to its inquiry into the Government response to recommendations 1 and 3 of Coroner Somes' inquest into a death at Quamby (on 12 and 19 July 2001), dated 9 July 2001.
> >
> > The public hearings of the Standing Committee on Health and Community Care in relation to its inquiry into elder abuse in the ACT (on 11 and 18 July 2001), dated 9 and 17 July 2001.
> >
> > The public hearings of the Standing Committee on Planning and Urban Services in relation to its inquiries into:
> >
> > > The Lower Molonglo River Corridor and the inquiry into extending the choice of electricity retailer to smaller customers (on 3 August 2001), dated 2 August 2001.
> > >
> > > Central land administration information system for the ACT and the National competition policy review of ACT taxi and hire car legislation (on 20 July 2001), dated 9 July 2001.
> > >
> > > Central land administration information system for the ACT; the Fairbairn Avenue Duplication and the Hall Village Master Plan (on 18 July 2001), dated 9 July 2001.

Pursuant to section 4—Authority to broadcast proceedings—Authorisations (2), dated 1 August 2001, given to specified government offices to receive sound broadcasts of the Legislative Assembly and committee proceedings, subject to the certain conditions.

Study trips—

Report by Mr Berry, MLA—Education and Training Conference—Adelaide—July 2001.

Report by Mr Quinlan, MLA—Meeting with Victorian Minister for Sport—Melbourne—July 2001.

Questions without notice
Bruce Stadium

MR HUMPHRIES: Mr Speaker, I wish to correct a matter which I mentioned in answer to a question from Mr Stanhope today in question time. I referred to the fact that Mr Tonkin had written to the Auditor-General clarifying or correcting the earlier impression he had created about the so-called inquiry or review done by Mr Gilmour. I am advised that that was not the case, that he had not written subsequently to advise of the error, although the matter has been well ventilated in the public arena. That is basically because the inquiry by the Auditor-General has been concluded. I wanted to correct that on the record, lest I be accused of misleading.

Board of inquiry into disability services—extract of interim report relating to death of Brett Ponting
Motion to authorise publication—statement by minister

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (3.56): For the information of members, I present the following paper:

Board of Inquiry into disability services—Interim Report, pages 1-4, 28-42—Canberra, 1 June 2001 for Public Release.

I ask for leave to move a motion authorising publication of the extract.

Leave granted.

MR HUMPHRIES: I move:

That the Assembly authorises publication of an extract interim report of the disability inquiry relating to the death of Brett Ponting.

Question resolved in the affirmative.

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

Leave granted.

MR HUMPHRIES: On Friday, 2 August last, Coroner Michael Somes handed down the findings of his inquest into the death of Mr Brett Ponting. The coroner is still to complete inquests into two other deaths which also occurred in facilities operated by the ACT disability program.

As the Assembly is aware, former Supreme Court judge John Gallop is currently conduct an inquiry which, broadly speaking, is required to examine service quality, service monitoring and accountability, consumer protection and resource allocation in relation to disability services in the ACT. The Gallop inquiry also examined the circumstances of the three deaths in disability program premises which the coroner is inquiring into and provided the government with an interim report which deals with its conclusions in relation to those deaths.

After the government received this interim report, it obtained legal advice from senior counsel which recommended that the interim report not be released publicly until the related coronial proceedings were concluded. This legal issue aside, the government has no desire to keep the interim report confidential. As the coroner has now handed down his findings in relation to the death of Brett Ponting, I am now tabling for public information an extract from the interim report which deals with Mr Ponting's death.

The tabling of this part of the interim report is consistent with the legal advice to which I have referred and the government's commitment to make the report available as soon as possible. The government is now considering its response to the coroner's findings and recommendations, which are being worked on urgently by the relevant department. When the final report of the disability inquiry, which will address all of its terms of reference, is handed down, the government will make public a full and detailed response. I hereby table an extract of the interim report of the disability inquiry which deals with the death of Mr Brett Ponting.

While I am on my feet, I wish to express the government's sympathy for members of the family of Mr Ponting. With the tabling in recent days of two reports into Mr Ponting's death, understandably they will have a number of issues raised in their minds at this time, which is, I understand, the anniversary of the death of Mr Ponting.

Financial Management Act
Papers and statements by minister

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): For the information of members, I present the following papers:

Financial Management Act—

Pursuant to section 26—Consolidated Financial Management Report for the month and financial year to date ending 31 May 2001.

Pursuant to section 14—Instruments directing a transfer of funds between appropriations, including a statement of reasons.

Pursuant to section 15—Instrument directing a reallocation of funds and a statement of reasons for the allocation.

> Pursuant to section 17—Instruments varying appropriation related to Commonwealth funding and a statement of reasons.
>
> Pursuant to section 18, a statement of reasons for expenditure against the Treasurer's Advance.
>
> Pursuant to section 19B—Instruments of authorisation of expenditure and a statement of reasons.

I ask for leave to make two short statements.

Leave granted.

MR HUMPHRIES: I have tabled a copy of the authorisations under section 18 of the act and a statement of reasons relating to the expenditure. Section 18 of the act allows the Treasurer to authorise expenditure from the Treasurer's Advance. The authorisation may be to provide for expenditure in excess of an amount already specifically appropriated or an expenditure for which there is no appropriation.

The act states that, where the Treasurer has authorised expenditure under section 18, a copy of the authorisation and a statement of reasons relating to the expenditure is to be laid before the Legislative Assembly as soon as practical after the end of the financial year. The 2000-01 Appropriation Act provided $16.4 million to the Treasurer's Advance. The final expenditure against the Treasurer's Advance for the 2000-01 financial year totalled $8.022 million, leaving $8.378 million unallocated. I commend these papers to the Assembly.

As required under the Financial Management Act 1996, I have tabled nine instruments issued under sections 14, 15, 17 and 19B of the act. A statement of the reasons for the transfer of funds between appropriations and a variation in appropriation by direction of the executive is also being tabled. These instruments relate to the 2000-01 financial year. The section 14 instruments provide for the transfer of funds between appropriations. These transfers and the related departments are: $745,000 from the Department of Urban Services to ACT Forests to assist in the ACT forest restructure program and provide extra working capital for the forests commercial business plan and $289,000 from the departmental capital injection to the territorial capital injection to fund the purchase of equipment for the mounted police team.

The section 15 instrument represents the transfer of function between output classifications within the Chief Minister's Department. The transfer is a consequence of the creation of Canberra Connect through the administrative arrangements orders of 20 October 2000. Section 17 of the act allows for the appropriation of any increases received for the existing Commonwealth specific purpose payments, the SPPs. The amounts and the departments affected are: $4.733 million of SPPs to the Department of Education and Community Services for a number of government and non-government education programs that were included in the 2000-01 budget; $13,000 to the Department of Urban Services under the interstate road transport program; and $25,000 to the Department of Treasury for an increase in funding from the Commonwealth covering the assistance for water and sewerage grant.

Section 19B of the act allows for the appropriation of any new Commonwealth specific purpose payments. The departments and amounts included in these instruments are: $75,000 to the Department of Education and Community Services, the SPP providing funding for the indigenous community sport development program and the ACT coaching centre; $1.25 million to the Department of Urban Services, the SPP being for the Commonwealth roads to recovery program; and $2.412 million allocated to the Department of Health, Housing and Community Care to compensate for the FBT transitional allowance. I commend these papers to the Assembly.

Territory Owned Corporations Act
Papers and statement by minister

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): For the information of members, I present the following papers:

> ACTEW Corporation—
>
> > Statement of corporate intent for ACTEW Corporation Ltd for 2001-2002 to 2004-2005, pursuant to subsection 19 (3).
> >
> > Statement for ACTEW Corporation Limited, pursuant to paragraph 9 (2) (b)—Change in principal activities of two subsidiary companies: ACTEW Retail Limited; and ACTEW Distribution Limited, dated August 2001.

I ask for leave to make a statement.

Leave granted.

MR HUMPHRIES: In accordance with paragraph 9 (2) (b) of the Territory Owned Corporations Act 1990, I have tabled a statement in relation to Actew Corporation Ltd's subsidiary companies arising from the Actew and Australian Gas Light Company partnership arrangements. The two Actew subsidiary companies in the partnership are Actew Retail Ltd and Actew Distribution Ltd. The principal activities of these two companies have changed as a result of joint venture arrangements. The constitutions of both companies have therefore been amended to reflect their changed roles.

Finance and Public Administration—Standing Committee
Finance Committee Report No 11—government response

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (4.05): I present the following paper:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Finance Committee Report No 11—Appropriation Bill 2000-2001 (No 2) *(presented 1 May 2001)*—Government response.

I move:

> That the Assembly takes note of the paper.

The committee made only three recommendations in its report. Two of the recommendations related to amendments to the Financial Management Act 1996 and one related to the level of the detailed explanation provided by the government in supplementary budget papers. One of the two recommended amendments to the Financial Management Act was to revert to quarterly reporting. That was implemented in the June sittings. The government does not consider the other recommendation to be appropriate as it would remove the government's ability to address cost pressures in the budget context.

On a broader level, the committee did not appear to support the need for a second appropriation. That is surprising, given that a second appropriation is the most transparent way in which a government can provide funding for necessary costs or projects during a financial year. Also, it allows the Assembly either to support or reject the proposal. It is this government's aim to be transparent with major expense items. A prime example of that is the inclusion of the Kingston foreshore and Bruce Operations loan waivers in the bill.

The waiver of these loans under the Financial Management Act does not have to be appropriated. However, the government chose to be transparent and enable the Assembly to comment on the proposed waivers. I note that at various points in the past the Assembly has been most insistent on there being more transparency, which the government is trying to satisfy. It clearly does not make sense for the Assembly to want greater openness and accountability but for its committees not to support such openness when it occurs.

Finally, I do commend the committee for one positive comment made in this report, which is to support this government's move to increase the availability of public housing for those groups most in need of support and assistance. I commend the government response to the Assembly.

Question resolved in the affirmative.

Papers

Mr Smyth presented the following papers:

> Report of the Review of the National Environment Protection Council Acts (Commonwealth, State and Territory) (NEPC).
>
> Land (Planning and Environment) Act—Statement pursuant to paragraph 229A (7) (b) in relation to the revocation of Development Application No 20011811—block 2, section 93 Amaroo, dated 19 July 2001.
>
> Cultural Facilities Corporation Act, pursuant to subsection 24 (8)—Cultural Facilities Corporation 2001-2002 Business Plan.

National environment protection acts

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): I seek leave to make a short statement.

Leave granted.

MR SMYTH: Under the National Environment Protection Council Act 1994, the government is required to table the report of the review of the national environment protection acts by 15

September 2001. The National Environment Protection Council endorsed the report of the review at its meeting on 29 June 2001. The review is a statutory requirement of the act and has considered the operation of the act and the extent to which its objectives have been met.

Dr Donald McMichael was commissioned by the council to undertake an independent review and he consulted government and non-government stakeholders. NEPC used this review to develop the review report. The recommendations of the review are generally of a minor and technical nature, and include improvements such as out-of-session voting on non-statutory decisions. No comments were received from non-government stakeholders. The ACT government's views have been incorporated into the report of the review. Agency comments have been incorporated in the submission. It is anticipated that no additional financial resources will be required to implement the recommendations of the review.

COAG agreed on 8 June to form an Environment Protection and Heritage Council, which will cover all of the matters currently dealt with by NEPC, the non-natural resource management issues of ANZEC and the heritage ministers meeting. Proposals to amend the act will be brought forward in 2002.

Papers

Mr Moore presented the following papers:

Financial Management Act, pursuant to section 26—Quarterly departmental performance reports for the June quarter 2000-2001 for the departments of:

Chief Minister.

Minister for Business, Tourism and the Arts.

Department of Health, Housing and Community Care.

Minister for Urban Services (Schedule 2); and

Treasurer.

Subordinate legislation (including explanatory statements, unless otherwise stated) and commencement provisions

Subordinate Laws Act, pursuant to section 6—

Adoption Act—Determination of fees—Instrument No 162 of 2001 (S40, dated 29 June 2001).

Agents Act—

Appointments to the Agents Board of the Australian Capital Territory—

Chair/member—Instrument No 164 of 2001 (No 27, dated 5 July 2001).

Members—Instrument No 165 of 2001 (No 27, dated 5 July 2001).

Declaration under subsection 3 (2) concerning the Koomarri Association—Instrument No 189 of 2001 (No 29, dated 19 July 2001).

Animal Diseases Act—Revocation and determination of fees—Instrument No 142 of 2001 (S34, dated 20 June 2001).

Animal Welfare Act—Revocation and determination of fees—Instrument No 141 of 2001 (S34, dated 20 June 2001).

Architects Act—Revocation and determination of fees—Instrument No 126 of 2001 (S34, dated 20 June 2001).

Building Act—

Building Regulations Amendment—Subordinate Law 2001 No 21 (No 28, dated 12 July 2001).

Revocation and adoption of Building Code of Australia and the Australian Capital Appendix—No 182 of 2001 (No 28, dated 12 July 2001).

Revocation and determination of fees—Instrument No 125 of 2001 (S34, dated 20 June 2001).

Building and Services Act—Revocation of fees—Instrument No 159 of 2001 (without explanatory statement) (S39, dated 28 June 2001).

Bushfire Act—Appointment of members to the ACT Bushfire Council—Instrument No 163 of 2001 (No 27, dated 5 July 2001).

Construction Practitioners Registration Act—Revocation and determination of fees—Instrument No 124 of 2001 (S34, dated 20 June 2001).

Crimes (Forensic Procedures) Act—Crimes (Forensic Procedures) Regulations Amendment—Subordinate Law 2001 No 25 (No 30, dated 26 July 2001).

Dangerous Goods Act—

Dangerous Goods Regulations Amendment—Subordinate Law 2001 No 19 (S38, dated 27 June 2001).

Revocation and determination of fees—

Instrument No 130 of 2001 (S34, dated 20 June 2001).

Instrument No 131 of 2001 (S34, dated 20 June 2001).

Domestic Animals Act—Determination of fees—Instrument No 149 of 2001 (S35, dated 21 June 2001).

Duties Act—Exemption guidelines for corporate reconstructions—Instrument No 193 of 2001 (No 30, dated 26 July 2001).

Education Services for Overseas Students (Registration and Regulation of Providers) Act—Determination of fees—Instrument No 167 of 2001 (S40, dated 29 June 2001).

Electoral Act—Determination of fees—Instrument No 150 of 2001 (No 26, dated 28 June 2001).

Electricity and Safety Act—Revocation and determination of fees—Instrument No 123 of 2001 (S34, dated 20 June 2001).

Electronic Transactions Act 2001—Notice of commencement (1 July 2001) of provisions of the Act (No 26, dated 28 June 2001).

Environment Protection Act—Revocation and determination of fees—Instrument No 136 of 2001 (S34, dated 20 June 2001).

Executive Documents Release Act 2001—Notice of commencement (19 July 2001) of provisions of the Act (No 29, dated 19 July 2001).

Gaming Machine Act—Approval of guidelines—Instrument No 168 of 2001 (without explanatory statement) (S40, dated 29 June 2001).

Gas Safety Act—

Gas Safety Regulations 2001—Subordinate Law 2001 No 18 (S37, dated 21 June 2001).

Revocation and determination of fees—Instrument No 138 of 2001 (S34, dated 20 June 2001).

Hawkers Act—Revocation and determination of fees—Instrument No 147 of 2001 (S34, dated 20 June 2001).

Hotel School Act—Appointment of members and alternate member to the Hotel School Board of the Australian Capital Territory—Instrument No 156 of 2001 (No 26, dated 28 June 2001).

Land (Planning and Environment) Act—

Appointment of member/Deputy Chairperson of the ACT Heritage Council—Instrument No 190 of 2001 (No 29, dated 19 July 2001).

Approval of Plan of Management—Canberra's Urban Lakes and Ponds—Instrument No 173 of 2001 (No 28, dated 12 July 2001).

Supplementary determination of fees—Instrument No 157 of 2001 (S39, dated 28 June 2001).

Revocation and determination of fees—Instrument No 121 of 2001 (S34, dated 20 June 2001).

Lakes Act—Revocation and determination of fees—Instrument No 140 of 2001 (S34, dated 20 June 2001).

Legislative Assembly (Members' Staff) Act—

Arrangements pursuant to subsection 10 (2) for the employment of staff by Members—Instrument No 169 of 2001 (S40, dated 29 June 2001).

Arrangements pursuant to subsection 5 (2) for the employment of staff by the Speaker—Instrument No 170 of 2001 (S40, dated 29 June 2001).

Terms and conditions of employment of staff of office-holders pursuant to subsection 6 (2)—Instrument No 161 of 2001 (S39, dated 28 June 2001).

Machinery Act—Revocation and determination of fees—Instrument No 135 of 2001 (S34, dated 20 June 2001).

Motor Omnibus Services Act—Determination of charges—

Instrument No 148 of 2001 (S38, dated 27 June 2001).

Instrument No 191 of 2001 (No 29, dated 19 July 2001).

Nature Conservation Act—Revocation and determination of fees—Instrument No 143 of 2001 (S34, dated 20 June 2001).

Occupational Health and Safety Act—Revocation and determination of fees—Instrument No 134 of 2001 (S34, dated 20 June 2001).

Plumbers, Drainers and Gasfitters Board Act—Revocation and determination of fees—Instrument No 119 of 2001 (S34, dated 20 June 2001).

Podiatrists Act—

Appointments to the Podiatrists Board of the ACT—

Chairperson—Instrument No 194 of 2001 (No 30, dated 26 July 2001).

Members—Instruments Nos 195 to 198 (inclusive) of 2001 (No 30, dated 26 July 2001).

Pounds Act—Revocation and determination of fees—Instrument No 145 of 2001 (S34, dated 20 June 2001).

Public Health Act—

Public Health Risk (Infection Control) Declaration Amendment 2001—Instrument No 184 of 2001 (S45, dated 10 July 2001).

Repeal of Skin Penetration Code of Practice—Instrument No 185 of 2001 (S45, dated 10 July 2001).

Public Health Risk (Infection Control)—Determination of fees—Instrument No 186 of 2001 (S45, dated 10 July 2001).

Public Health Risk (Health Care Facilities) Declaration 2001—Instrument No 183 of 2001 (No 29, dated 19 July 2001).

Determination of a Health Care Facilities Code of Practice—Instrument No 187 of 2001 (No 29, dated 19 July 2001).

Licensing of health care facilities—Determination of fees—Instrument No 188 of 2001 (No 29, dated 19 July 2001).

Public Health (Miscellaneous Provisions) Act 1997—Notice of commencement (10 July 2001) of Part V and section 44 of Part VIII (S45, dated 10 July 2001).

Public Place Names Act—Determination of division nomenclature—Bonner—Instrument No 172 of 2001 (No 28, dated 12 July 2001).

Racing Act 1999—Notice of commencement (1 July 2001) of remaining provisions (S42, dated 2 July 2001).

Rates and Land Rent (Relief) Act—Notice fixing rates of interest—Instrument No 154 of 2001 (No 26, dated 28 June 2001).

Rates and Land Tax Act—Determinations of interest rates—

Instrument No 152 of 2001 (No 26, dated 28 June 2001).

Instrument No 153 of 2001 (No 26, dated 28 June 2001).

Road Transport (General) Act—

Declaration—Road transport legislation not to apply to certain roads and road related areas—Instrument No 160 of 2001 (S39, dated 28 June 2001).

Dimensions and mass permits—Revocation and determination of fees—Instrument No 117 of 2001 (S34, dated 20 June 2001).

Driver licences—Revocation and determination of fees—Instrument No 116 of 2001 (S34, dated 20 June 2001).

Maximum taxi fares—Revocation and determination of fees—No 112 of 2001 (No 25, dated 21 June 2001).

Number plates—Revocation and determination of fees—Instrument No 115 of 2001 (S34, dated 20 June 2001).

Parking permits—Revocation and determination of fees—Instrument No 114 of 2001 (S34, dated 20 June 2001).

Revocation and determination of fees—Instrument No 127 of 2001 (S34, dated 20 June 2001).

Vehicle Impounding and Seizure/Speedtests—Revocation and determination of fees—Instrument No 113 of 2001 (S34, dated 20 June 2001).

Road Transport (Offences) Regulations 2001—Subordinate Law 2001 No 20 (S40, dated 29 June 2001).

Roads and Public Places Act—Revocation and determination of fees—

Instrument No 128 of 2001 (S34, dated 20 June 2001).

Instrument No 129 of 2001 (S34, dated 20 June 2001).

Instrument No 146 of 2001 (S34, dated 20 June 2001).

Scaffolding and Lifts Act—Revocation and determination of fees—Instrument No 133 of 2001 (S34, dated 20 June 2001).

Stock Act—Revocation and determination of fees—

Instrument No 137 of 2001 (S34, dated 20 June 2001).

Instrument No 139 of 2001 (S34, dated 20 June 2001).

Subordinate Laws Act and Public Trustee Act—Supplementary determination of fees—Instrument No 155 of 2001 (No 26, dated 28 June 2001).

Supreme Court Act—Supreme Court Rules Amendment—Subordinate Law 2001 No 23 (S46, dated 16 July 2001).

Surveyors Act 2001—Notice of commencement (26 July 2001) (No 30, dated 26 July 2001).

Surveyors Act—

Appointment of Commissioner for Surveys—Instrument No 200 of 2001 (No 30, dated 26 July 2001).

Revocation and determination of fees—Instrument No 120 of 2001 (S34, dated 20 June 2001).

Taxation Administration Act—

Determination of rates of duty for the purposes of the *Duties Act 1999* —Instrument No 151 of 2001 (No 26, dated 28 June 2001).

Declaration—Lodgment of June 2002 payroll tax return—Instrument No 192 of 2001 (No 30, dated 26 July 2001).

Tree Protection (Interim Scheme) Act—Appointment—Adviser to the Conservator of Flora and Fauna—Instrument No 199 of 2001 (No 30, dated 26 July 2001).

University of Canberra Act—Appointments to the Council of the University of Canberra—

Members—Instruments Nos 174-180 of 2001 (inclusive) (No 28, dated 12 July 2001).

Unit Titles Act—Revocation and determination of fees—Instrument No 118 of 2001 (S34, dated 20 June 2001).

Utilities Act—Appointments to the Essential Services Consumer Council—

Deputy Chair and Members—Instrument No 171 of 2001 (S41, dated 29 June 2001).

Member—Instrument No 181 of 2001 (No 28, dated 12 July 2001).

Vocational Education and Training Act—Determination of fees—Instrument No 166 of 2001 (S40, dated 29 June 2001).

Waste Minimisation Act 2001—Notice of commencement (28 June 2001) of Act (S40, dated 29 June 2001).

Waste Minimisation Act—

Determination of fees—Instrument No 158 of 2001 (S39, dated 28 June 2001).

Waste Minimisation Regulations 2001—Subordinate Law 2001 No 24 (S47, dated 17 July 2001).

Water and Sewerage Act—Revocation and determination of fees—Instrument No 122 of 2001 (S34, dated 20 June 2001).

Water Resources Act—Revocation and determination of fees—Instrument No 144 of 2001 (S34, dated 20 June 2001).

Workers' Compensation Act—Revocation and determination of fees—Instrument No 132 of 2001 (S34, dated 20 June 2001).

Bail Amendment Bill 2001 (No 2)

Debate resumed from 19 June 2001, on motion by **Mr Stefaniak**:

That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (4.10): The Bail Amendment Bill 2001, which Labor supported, introduced a presumption against bail when two conditions were satisfied: the accused person was on bail for a serious offence and the accused person was alleged to have committed a second serious offence; that is, that bill applied only to the limited category of persons on bail for a serious charge who allegedly committed another serious offence.

All speakers on that bill referred principally to housebreaking; in particular, Mr Smyth referred to Operation Anchorage of the police, which resulted in 139 arrests. Twenty per cent of the people arrested during that operation were on bail at the time of their arrest. Seven people were arrested twice during the operation and one person was arrested four times. However, the provision could apply to any series of serious offences, for example, stealing motor vehicles or assaults.

In those circumstances, we supported the enactment of the presumption against bail, particularly as it could be seen as an extension of section 22 (1) (c) of the Bail Act, which permits the court to take into account the need to protect the community, having regard to the likelihood of the person committing an offence while on bail. Section 22 (1) (c) is not limited to serious offences, which raises a point that the

Attorney might like to touch on in his remarks in relation to this bill. It is something that has not been explained to me in any of these debates. I am not quite clear why it was that a person could be arrested four times and released four times during Operation Anchorage and the magistrate who presided in each of those four matters did not utilise the provisions of section 22 (1) (c) of the Bail Act. That is something that has continued to confuse me in the context of the debate we are having around these amendments to the Bail Act.

The current bill seeks to extend the application for presumption against bail even further; in fact, in the view of the Labor Party it goes too far. Many people awaiting a hearing on a serious offence are not on bail. In the case of persons issued with a summons or a voluntary agreement to attend court, bail is never required. Some people are not required by the court to enter bail after an appearance before the court. That is because the offender and the offence, even a serious offence, are seen by the court, and perhaps even by the police, as being of a lesser degree of danger than others.

It is highly unlikely that offenders who are a threat to the community and therefore who should be in prison whilst awaiting a trial, or who are perceived by the police or the court in the terms of section 22 (1) (c) of the Bail Act, are likely to reoffend, and therefore the community needs protection against them, will be summonsed or given a voluntary agreement to attend court, or released by the court without bail. If they are, then one has to pose the question why. On what basis did the courts release them without bail or on what basis did the police choose not to seek either bail or incarceration?

Therefore, if such a person commits a serious offence while the first matter is unresolved, this bill would remove the presumption of the right to bail. The first offence has been seen by the authorities, and I think this is the crux of the Labor Party's position on this matter, as being of a lesser degree or the offender is seen as less of a danger than others. The reduced magnitude of the first offence seems to us to put a person charged with a second offence in a different category. It seems to us that you cannot have it both ways: you cannot choose not to proceed and you cannot choose not to seek to oppose bail. You cannot seek to release a person on bail and then come back after the person is charged with a second offence and, basically, pretend or wish that in the first instance you had sought such an order.

The Labor Party's view is that in such a case the first offence should not automatically remove the presumption of the right to bail. That seems to us to be simply unfair. In such a case the court should be free to assess the case for bail on its merits without the additional requirement to determine whether there are special or exceptional circumstances that would justify bail. In the circumstances, the Labor Party will not support this extension of the Bail Act.

MR HARGREAVES (4.15): The reason that the Labor Party did not agree with the last one was based on the fundamental premise that we are talking about a charged offence and we are talking about an accusation of an offence. Neither of the two bills talks about somebody who has been found guilty of an offence and is on bail awaiting sentence, for example. What I had yelled at me across the chamber last time was: "Don't you trust the police?" The answer is that I trust the police implicitly.

Mr Rugendyke: Show it.

MR HARGREAVES: I hear some odd person across the chamber saying, "Show it." The thing is that, if the information is not there to convince a judge to withhold bail, the case is pretty flimsy in the first place. Why do you think it is that it is flimsy stuff? Usually, it is because there are not enough resources out there for the police to do a good job anyway. If members of the police prosecution are not confident that they will be able to convince a judge to withhold bail, to make sure people go into remand instead of being released into the community, then we have a pretty sad and sorry state of affairs, because at the end of the day the person will not be found guilty of anything.

What we have is a police officer saying, "We have charged this person with a second offence and it is a serious offence." I have no problem with denying a person bail under those circumstances. It is the presumption of guilt that I have a problem with. If the police officers want to put to a magistrate a case which says, "This person committed a burglary and we are now charging this person with motor vehicle theft and we think this person should be denied bail," I think it would be rare for a magistrate to say, "No, I will let him go." To do otherwise would be to show a lack of faith in the judiciary, a complete and utter lack of faith in the judiciary. They government is saying, "We have no faith in the judiciary, but we have heaps of faith in the police to decide that."

Mr Stefaniak: The Chief Magistrate raised these points.

MR HARGREAVES: The Attorney-General said that the Chief Magistrate raised these issues. The Chief Magistrate has the power to deny bail on information provided to him by the informant, usually a police officer and quite often the public prosecutor, so why can't that be the case? There is the presumption of guilt. Embedded firmly in this legislation, as in the last piece, is the presumption of guilt or at least the presumption that a person is going to go out and commit another serious offence, but evidence of that is not being provided to the courts. This legislation and its predecessor mean that a magistrate starts from the position that he is not going to give bail when a police officer draws attention to a charge; the magistrate does not even have to look at the circumstances behind it. That, to me, is totally inappropriate.

Most of the members of the community have an enormous amount of faith in and fond regard for our police officers, but there are elements out there that do not. I do not really care too much about those people who will end up before the magistrates, but there is another group. The other group believes that there is a possibility of abuse. I must say that I know no police officer who would be even tempted to go down that track. I would say that the AFP, particularly in the ACT region, has the absolute best reputation across the country for not indulging in this stuff. But there is perception and there is reality. I do not think it is right that we should put this responsibility on the police officers. It is a responsibility that we invest in the judiciary. The members of the judiciary are the people who decide whether someone is going to go to jail and they usually decide that upon the facts presented to them. This legislation and its predecessor mean that they start from the position that someone is going to go to jail and work backwards from there. That is the fundamental flaw behind it.

The dodger over there can shake his head as much as he likes, I do not care, but he knows that what I am saying is true. If police officers do not have the information to put before a magistrate, the person should not be presented. A person should not be presented before the courts if the police officers do not have enough information to have bail refused. This is just an easy cop-out and you are taking away from the judiciary the power to withdraw somebody's liberty, their freedom. You are taking it away from them. You are responsible for it.

Mr Rugendyke: He trusts the judiciary more than he trusts the police; that is what he is saying.

MR HARGREAVES: In response to the accusation that I do not trust the police, I say that Mr Rugendyke has no faith in the judiciary, none whatever. He can sit there smirking and throw those sorts of insults across the chamber with impunity, but he has not got the courage to stand up here and justify his position. I think that this is an appalling piece of legislation.

MR RUGENDYKE (4.22): I had better stand up and justify my position. I will be wholeheartedly supporting this piece of wonderful legislation to close loopholes that have been discovered, to tighten up the situation, to make sure that recidivists are not out on the loose when they should be in remand. It is a privilege to support this legislation, which does the job of making the bail system working in the way the people of our community like to see it working, whereby people are put inside when there is knowledge that they will be reoffending or they have reoffended when they are on bail; it is that simple. Let us have a great deal of confidence in our police force using this legislation wisely, as I know they will. I am glad to let Mr Hargreaves know my position, since he specifically asked me to do so.

MS TUCKER (4.23): The Greens will oppose this bill, as we did with the first bail amendment bill. This bill redefines the presumption against bail so that it will apply to all people whose charges on serious offences are pending, not only those who are the subject of a bail agreement. Mr Stefaniak says that the proposal before us today will loosen the unduly restrictive criteria for presuming against bail, so it seems that this change was not simply about sending a message with no effect, as Mr Stefaniak presented it originally.

Mr Stefaniak downplays the net widening, saying that it will improve the operation by removing an unnecessary distinction between alleged offenders on bail. However, Mr Stanhope sees it as a significant change, so significant that he will vote against it this time. The Labor Party's policy was, in fact, to retain the presumption in favour of bail for all offences, so I am glad to see Labor drawing the line somewhere. Is there really such an important difference here, though? There are a few options open to courts when someone is first charged with an offence. The act, even without the presumption against bail provision, required assessment of a number of factors. Unfortunately, Mr Rugendyke has not addressed any of those issues on either occasion that we have debated this legislation. I think that it shows a lack of consideration of the issues if a member stands up to show support for a position without in any way addressing the concerns that have been put in this place by other members. That is a very inadequate response.

The fact is that, without the presumption against bail clause, there was an assessment of a number of factors, including the seriousness of the alleged offence, the risk to others in the community and the likelihood of a person reoffending, together with the quality of evidence against the person charged and other matters. Just in case we get the argument today that it is just as well we had this presumption because a certain dangerous person is now in custody after breaching bail, I point out that the basis for refusing bail was there without the recent amendment.

The court responsible can decide that neither imprisonment nor bail is required to ensure the person charged will turn up to their court date and to ensure safety of the community and in those cases can arrange either a voluntary agreement to appear or to dispense with bail. These options are available to reflect the variety which would be found when balancing up all those criteria in the Bail Act and in the circumstances of particular cases and individuals. The proposal to extend this presumption to people who have been judged not to require bail reduces further the discretion to assess each case individually. It requires the court hearing a second charge against such a person to disregard the evidence, throwing out completely the assessment made of the evidence on the first charge.

The problem is that this requirement to disregard the circumstances opens up the system to abuse. That is not to say that in all cases it will be abused, but it is just pointing out that our justice system needs to protect us all from abuse. Someone charged twice will be refused bail regardless of the seriousness and risk, apart from this arbitrary five-year punishment standard. We may feel comfortable that we will not be regarded as suspects because we present as respectable white members of society, but what about the people who do not look like us and who may well be victims of prejudice?

I welcome Labor's position, but both this and the previous presumption against bail have removed the court's discretion to assess each case. Operation Anchorage has identified a number of alleged reoffenders, but that is not a basis for making laws. This kind of provision does nothing to address the causes of crime in our community. This kind of provision is a knee-jerk reaction to a complex social issue. It is a law and order response which is not based on any real analysis of the causes of crime and the issues that are at the root of the anti-social behaviour that we are experiencing in Canberra; that is, mainly it is about people who are addicted to some kind of substance.

On one hand we have the question of what is causing the crime and how we can move to work with the community and support them so that we do not have such a large crime issue. Sweden, interestingly, is often used by people such as Mr Rugendyke and Mr Osborne to support their claims for a law and order response to substance abuse. It is very interesting that in the list of OECD countries Sweden is at the top or very close to the top in terms of the expenditure of public money on social services. We need to look at the implications of that for substance abuse. It is not good enough for legislatures such as ours to say that we are going to fix our crime problem by reducing, in this case, the capacity for there to be an assessment made in each case in terms of bail. This bill is a further mechanism for depriving people of liberty. It goes against the presumption of innocence. It is a major social issue for any parliament to be addressing.

Mr Moore said in his earlier speech that he had addressed those issues, that he had weighed up the civil liberties issues against the crime and the risk to the community, and came out in favour of supporting this legislation of the Liberals. My real concern is that he knows, as do most people in this place, I believe, that if we looked seriously at the social issues at the root of crime in the community we would want to see greater emphasis on and a greater commitment to dealing with those issues by the government of the day. This kind of legislation is a cop-out. It is about a government saying, "We care about crime and this is what we are going to do. It is too bad if it means a diminution of civil liberties, because we know that we need to act and we are being pretty tough on this question." That is a cop-out. We should be having a total commitment to looking at the issues at the basis of the crime.

Mr Moore, to give him credit, has done a lot of work over the years on looking at drug law reform and dealing with particular issues that are the basis of most of our crime. However, I still do not think it is acceptable, given the lack of commitment from the rest of the government, for the government to proceed with this kind of response. I am sorry that Mr Moore supported it, because it is not the answer and it is a diminution of the civil liberties of our community. I think it is dangerous and I hope that a future Assembly will move to repeal these sorts of unsophisticated responses to these issues.

MR MOORE (Minister for Health, Housing and Community Services) (4.30): On this issue of civil liberties, as with previous matters of civil liberties, I am entitled to step aside from the government. I read this piece of legislation prior to its going to cabinet and chose not to step aside on it. The reason I chose not to step aside, and we have heard the arguments for civil liberties put quite eloquently by other members of the Assembly, is similar to the one for the previous bail amendment bill.

First of all, we are talking about serious offences; that is the most important thing. Secondly, we are talking about somebody who is alleged to have committed a serious offence. What is more important, we are not talking about removing a magistrate's right to make a decision. The magistrate still has the right to make a decision. But what has changed, and members have correctly put their perspective on it, is the presumption of guilt. That is a serious matter. We know that the vast majority of people who are committing burglaries are dependent on heroin and that they are being driven to commit further serious crimes of burglary, armed robbery and so on.

We are talking about serious matters and I have to say that the decision has been difficult for me. I hear the arguments of those opposite. Contrary to other members of the Assembly, I am not interested in doing a law and order thing for the next election. I have made it clear that I am not standing in the next election, although I think that this is the first time I have mentioned it in the house. I am interested in ensuring that we take the best steps to make our community safe.

One of the things we should be doing is providing a supervised injecting room. Another thing we should be doing is trialling the provision of pharmaceutical heroin. I think that this is a policy matter that we ought to have been able to decide in this Assembly without the interference of the current Prime Minister, who I think is responsible, amongst other things, for the break-ins to a series of cars at the front of my house on the weekend. I do, because we should have been providing pharmaceutical heroin for these people.

Although this bill is, as pointed out by those opposite, a further infringement of civil liberties, I am supporting it because, unfortunately, I feel that it is necessary. It is not going to the extent that a magistrate will not still have the final say. He or she will do so, which I think is the most important factor.

MR STEFANIAK (Minister for Education and Attorney-General) (4.34), in reply: I think that a few people have lost track of exactly what we are talking about, which might not be surprising as it probably happened this morning as well on another bill. The Bail Amendment Bill 2001 created a presumption against bail for people who allegedly commit a serious offence whilst on bail for another serious offence. The presumption was introduced in acknowledgment of the fact that it is appropriate for alleged reoffenders, particularly when serious offences are involved, to be required to prove exceptional or special circumstances before being granted bail.

While the current presumption, which has been in force for a couple of months, applies where a person is alleged to have committed a serious offence whilst on bail for another serious offence, not all people in the ACT alleged to have committed a serious offence are, in fact, on bail. Instead, an offender may be summonsed to appear at court or may enter into a voluntary agreement to attend court, a VATAC. Also, if a person is arrested and brought before a court, the court may dispense with the requirement for bail. In addition, if a person fails to appear at court in accordance with a bail undertaking, he or she then ceases to be on bail. That point was made by the Chief Justice in a case not long after the first amendment of 2001 to the Bail Act came into force.

Accordingly, this bill amends the presumption to include people who allegedly commit a serious offence while they have a charge for a serious offence pending or outstanding. A pending charge is defined as including a person who has been issued with a summons or entered into a voluntary agreement to attend court in relation to a serious offence, and a person arrested for the offence but not yet charged, unless the person is later released without charge. An outstanding charge covers people who have been charged with a serious offence where the charges have not been finally determined.

The bill introducing the current presumption against bail was passed by everyone except Ms Tucker, an overwhelming majority. This bill simply improves the operation of the presumption by removing the unnecessary distinction between alleged offenders on bail and those who have had proceedings instituted against them by way of a VATAC or a summons or who otherwise are not on bail. The amended presumption would apply in relation to a decision to grant bail on or after commencement, even if a relevant offence is alleged to have been committed prior to that time. That strikes an appropriate balance between the rights of the defendant and the right of the broader community to be protected from crime. Mr Moore seems to have appreciated that, although I do not agree with some of his comments in relation to shooting galleries or whatever. Mr Speaker, it is fascinating that members are so interested that Mr Kaine is the only member in the chamber; nevertheless, I will continue.

Mr Kaine: I am finding this fascinating.

MR STEFANIAK: Thank you, Mr Kaine. I will now go through what some of the members have said. I was a little disappointed, although not surprised, by the Labor Party's position. I thought that we were getting somewhere and they were actually starting to listen to the community, listen to the concerns of police and listen to members of the legal fraternity in terms of the first bail amendment bill of 2001, but they are probably showing their true colours now in rejecting this sensible piece of legislation.

This bill, No 2, is before the Assembly because of problems—I mentioned one raised by the Chief Justice—with people on bail not appearing when required. Bail is then forfeited and such persons are not on bail. Those persons might then commit further offences and, by the time they are apprehended for those offences and brought before the court, the law as it currently stands would not apply because they were not on bail, although I do not think anyone in their right mind would argue that such persons should not have anything occur other than be remanded in custody. Why should they escape when other people who commit offences while on bail would not escape?

The Chief Magistrate also raised problems caused by VATACs and summonses. I had several discussions with him about those matters. Summonses are used in the territory fairly frequently, and have been since the 1980s. In fact, in the 1980s, under a federal Labor government, summonses were the preferred form of initiating actions unless you really did have to charge someone and then bail them, so quite a number of people are summonsed. I think it is grossly unfair that a person of no fixed abode who has allegedly committed, say, 10 burglaries should be subject to these penalties, although I would think they would deserve it, unless there were exceptional circumstances, if they were on bail and then committed further offences and were remanded in custody, whereas someone of a fixed place of abode who is charged with 10 burglaries and who is summonsed to attend court should not have the same presumption apply if they commit further offences prior to their matters being finalised because they have a fixed place of abode and it looks like they are not going anywhere. I think that there is an equity issue there which a lot of the members who are so-called civil libertarians are actually missing.

There are historical reasons why there are VATACs and summonses for people in the territory. They are matters are of concern to the Chief Magistrate. Those matters were raised within a few weeks of the previous amendment to the act being passed. As a result, I thought it was very important that we fix the problem. I am responding there as much as anything to concerns by the Chief Magistrate and observations made in a particular case by the Chief Justice. They are members of the judiciary, so it is not just a matter of concern to the police, as Mr Hargreaves would tend to think.

Mr Stanhope raised a very good point about Operation Anchorage and the fact that one person was charged four times—I am not too sure of the sex of that person—and asked why on earth that person got bail, and one must assume that that person did get bail. If you look at the act, you will probably see some provisions there whereby a court can grant bail. I am not casting any aspersions on the judiciary—maybe Mr Stanhope should ask the relevant magistrate—but the fact is that the Chief Magistrate and a number of other members of the judiciary had concerns about the Bail Act 1992 in relation to this matter. Until we amended the act last May, they felt that there was very

much a presumption in favour of bail which tied their hands in terms of that they could do.

In fact, one member of the judiciary mentioned to me a concern about the Bail Act as it currently stands in relation to very serious crimes, such as murder, indicating that if Martin Bryant had committed in Canberra the offences he committed he would have had a presumption in favour of getting bail as the act stood. Indeed, the Law Reform Commission has come down with a report, which I will probably table in these sittings, although we will not have time to make any legislative changes, in which it makes some very interesting comments in relation to reversing the presumption of bail in certain circumstances. What we are concentrating on here is a narrower issue. It is an issue which most people opposite supported last time and I think that they are missing the point on it this time, unless Labor wants to distance itself from what it sees as a law and order campaign or nonsense such as that.

Mr Hargreaves and Ms Tucker to an extent last time, although she did not seem to say much about it this time, missed the point in terms of what bail is all about and what charging people is all about. If you followed their argument through to its logical conclusion, everyone would be on bail until such time as there was a finding of guilt against them. Refusal of bail is not anything to do with a finding of guilt in terms of the substantive offences. If it were, everyone would get bail. However, quite clearly, the law in both this territory and the states recognises that there are instances where people should be remanded in custody prior to their matters being concluded one way or another. Indeed, there have been instances where people have been refused bail and ultimately found not guilty. Of course, there have been many instances where people have been refused bail, been found guilty and, if they have spent a bit of time in custody, had that taken into account in terms of their sentence.

I think Mr Hargreaves really misses the point there in saying that these people have not been found guilty and might not be found guilty in some instances. That is not the purpose of bail. In the report of the scrutiny of bills committee of April or May which was on the table when we discussed the first bail amendment bill of this year there was quite a good dissertation on that and he should read it. It is not that the police or the public prosecutors are not doing a good job. The members of the AFP and the staff of the Director of Public Prosecutions do a very good job, but they are constrained by what the acts tell them, as are members of the judiciary, and they can only do so much. I think the police do an excellent job. If members of the judiciary tell the government that there are improvements that can be made, I think we should listen to them, certainly when it seems to be very much in the public interest to do so. So I think that some of the comments of Mr Hargreaves were somewhat confused.

Mr Rugendyke was short and to the point. In the famous words of McTiernan J, I concur. I do not think I can add too much to what Mr Rugendyke said; it was a good, common sense approach. I reiterate that this bill closes the remaining loopholes identified by a judgment in the Supreme Court and in concerns expressed and comments made by the Chief Magistrate, not just to me, but also publicly. The community has a right to be protected. This law strikes a good balance between the rights of the community, the rights of victims, and the rights of defendants who appear before the courts. The police feedback I have been getting since the first amendments were made has been very positive indeed. The feedback I have been getting from the

courts also has been positive, albeit with reference to a few loopholes which do need closing and which this bill closes.

Quite clearly, we are starting to see some benefits occurring through a combination of measures such as the targeting crime, as Operation Anchorage did so successfully, and the improving of the laws of this territory to enable the police and the courts to do the job without unreasonable legislative restraints on them. Obviously, it is ludicrous to have laws that enable people who are charged and on bail or summonsed and not on bail and who commit offences while the finalisation of charges on other offences is pending to use the courts like a revolving door. A presumption that enables people in those situations simply to go to court, get out and, as some of the police tell me, within minutes commit more and more burglaries or more and more serious crimes is an intolerable situation that the community has the right not to expect. Indeed, the community has a right to expect this legislative body to make the necessary amendments to the laws so that idiotic situations like that are stopped.

That is exactly what this bill is doing. It is simply improving on the very good start we made several months ago. I must say that I am very sad that on this bill the Labor Party has changed the very positive stand it had taken initially. It may be that some of its members have missed the point; I do not know. I commend the legislation to the Assembly. We have already seen distinct improvements in the short time the first amendment to the Bail Act has been in force. This amendment will enable further improvements to be made to overcome the anomalies which still exist and to which I have referred.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Statute Law Amendment Bill 2001

Debate resumed from 15 June 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (4.48): Statute law amendment bills are introduced primarily to keep pace with a range of changes that occur as technology changes and society advances. Statute law amendment bills are designed to keep our statute books up to date with what is happening in the broader community. The aim of every statute law amendment bill is to ensure that the broad range of legislation on the statute books is in accord with modern drafting practice, technological changes and other changes that occur within the community. There is a convention that only minor non-controversial and non-policy matters will be included in statute law legislation.

The Labor Party has looked at this particular bill. Statue law bills are, by their very nature, often incredibly detailed and complex. To some extent, oppositions in all places, in their consideration of statute law bills, take governments on faith in relation to that understanding that only minor non-controversial and non-policy matters will be included within such legislation. I am happy to accept the Attorney's assurance that this particular legislation does contain only minor non-controversial and non-policy matters.

I note that the Attorney, in his presentation speech, drew on a couple of interesting examples—one in relation to amendments to the Radiation Act and one in relation to amendments to the Transplantation and Anatomy Act. Both of those acts are changed to take account of significant changes in the technology that applies to ionising radiation and the determination of death.

There may be some discussion about whether a new definition or a new methodology for determining whether or not life has ceased and the criteria that a doctor who is certifying death needs to take are more than minor or are not related to matters of policy. But, to be fair, the interesting example the Attorney gave in relation to the Transplantation and Anatomy Act illustrates the importance of the work that goes into statute law amendment bills. It is quite intriguing. It highlights the enormous skill and professionalism of the drafting office that they are able to take account of how technological changes impact on a range of statutes.

I commend the drafting officers who were responsible for this piece of legislation. I have always been mightily impressed by the work that parliamentary counsel and drafting officers put into these significant and very important pieces of legislation that perhaps do not attract the attention and the applause they often deserve. I think they are amongst the most significant and important pieces of legislation that come before the place, yet we tend to flick them through without much comment and without acknowledging the enormous work that goes into their preparation and the enormous skill that is required.

I understand there are to be some amendments. I have received an assurance that, as with the changes in the bill, the amendments relate to minor non-controversial, non-policy matters. On that basis, the Labor Party is prepared to accept the amendments as well.

MR STEFANIAK (Minister for Education and Attorney-General) (4.54), in reply: Mr Speaker, I thank Mr Stanhope for his comments. There are some government amendments which I am assured are all technical in nature. I will say a bit more about them later.

I would agree with Mr Stanhope's compliments about drafting officers. Drafting is a difficult job. It is not easy, as both Mr Stanhope and I know. We have had a bit of a go at it ourselves, but never with anything like the great skill shown by parliamentary counsel. I would join Mr Stanhope in complimenting the officers who drafted this bill. It was certainly a very difficult piece of work, and their skill is to be commended. Might I thank Mr Stanhope for his compliments to those officers. His remarks will be recorded in *Hansard*, and I will make sure they are passed on to those concerned in case they do not read *Hansard*, although I am sure they do.

I commend the legislation to the Assembly, and 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) (4.55): Mr Speaker, I seek leave to formally move amendments 1 to 12 circulated in my name together.

Leave granted.

MR STEFANIAK: I move my amendments 1 to 5 *[see schedule 5 at page 2509]*. The circulated government amendments are all technical in nature. The main purpose of the amendments is to facilitate the operation of the legislation register. The desirability of these amendments became apparent during the development of the supporting computer systems for the electronic legislation register established by the Legislation Act 2001.

The overall purpose of the amendments is to simplify the operation of the register and ensure an appropriate level of access to legislation for users, especially people with visual disabilities. Authorised versions of the legislation will be available as PDF (portable document format) files. However, HTML (hypertext markup language) versions will also be available, because they can be read by most screen reader software used by people with visual disabilities.

A more detailed explanation of the effect of all the amendments is set out under the "General" heading in the explanatory statement to the amendments.

Work on the computer systems for the Legislation Act 2001 is well advanced, and it is expected that it will be possible to commence the act in September.

Amendments agreed to.

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

Bill, as amended, agreed to.

Leave of absence to member

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

> That leave of absence for Wednesday, 8 August 2001 be given to Mr Osborne.

ACTION Corporation Bill 1999

[Cognate bill:

Road Transport (Public Passenger Services) Bill 2000]

Debate resumed.

MR SPEAKER: I advise the Assembly that the debate on this order of the day will be held concurrently with the debate on the Road Transport (Public Passenger Services) Bill 2000.

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

Road Transport (Public Passenger Services) Bill 2000

Debate resumed.

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

Adjournment

Motion (by **Mr Smyth**) proposed:

> That the Assembly do now adjourn.

Williamsdale Quarry

MR BERRY (4.58): Mr Speaker, during question time Mr Humphries made a point about some legal advice I had received in relation to the Williamsdale quarry. It pointed to the legality of the disposal of significant assets at the quarry. Mr Humphries tried to create the impression that there was something wrong with the advice I had given to lawyers in relation to the matter so they could draw their conclusions about the legality or otherwise of the joint venture arrangements the government claims were some sort of achievement. They accrued a joint venture, they claim, rather than disposed of part of an asset.

Mr Humphries drew attention to the information I might have given to the lawyers in this matter and claimed that that might have been inadequate. That is interesting, because the information I gave to the lawyers was Mr Humphries' speech. That may well have been inadequate, but I cannot take responsibility for that. That is Mr Humphries' problem.

Question resolved in the affirmative.

Assembly adjourned at 4.59 pm

Schedules of amendments

Schedule 1

LEGISLATIVE ASSEMBLY (MEMBERS' STAFF) AMENDMENT BILL 2000

Amendments circulated by the Chief Minister

Clause 2
Page 2, line 5—

Omit the clause, substitute the following clause:

2 Commencement

This Act commences on a day fixed by the Minister by notice in the Gazette.

Note 1 The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Interpretation Act 1967*, s 10C (1)).

Note 3 If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

Schedule 2

LEGISLATIVE ASSEMBLY (MEMBERS' STAFF) AMENDMENT BILL 2000

Amendments circulated by Ms Tucker

1
Clause 8
Proposed new subsection 13A (3A)
Page 4, line 19—

After proposed new subsection 13A (3), insert the following new subsection:

(3A) If the applicant tells the commissioner in writing that the applicant wishes the independent officer for the committee to be appointed on the nomination of a named organisation registered under the *Workplace Relations Act 1996* (Cwlth), the commissioner must ask the named organisation to nominate a person for appointment and, if it does so, appoint the person so nominated to be the independent officer for the committee.

2
Clause 8
Proposed new subsections 13A (4) and (5)
Page 4, line 20—

Omit the subsections, substitute the following subsections:

(4) The commissioner must, in writing, determine—

(a) procedures for choosing an independent officer for a committee; and

(b) procedures that a committee must follow in considering an application.

Note Power given under an Act to make a statutory instrument (including a determination) includes power to amend or repeal the instrument (see *Legislation Act 2001*, s 38 (1)).

(5) A determination under subsection (4) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Schedule 3

DUTIES AMENDMENT BILL 2001 (NO 2)

Amendments circulated by the Treasurer

1
Clause 40
New dot point
Page 21, line 8—

At the end, insert the following dot point:

1) Legislation (Consequential Amendments) Act 2001.

2
Schedule 1
Proposed new part 4
Page 25, line 13—

At the end, insert the following new part:

Part 4 Legislation (Consequential Amendments) Act 2001

[1.12] Schedule 1, amendments 1.1252 and 1.1253

omit

Schedule 4

COMMUNITY TITLE BILL 2001

Amendments circulated by Minister for Urban Services

3
Clause 9
Page 7, line 28—

At the end of the clause, add "that need to be made for the scheme to comply with this Act".

4
Clause 67
Paragraph (2) (b)
Page 39, line 25—

Omit ", address and contact telephone number for", substitute "and address of".

5
Clause 67
Subclause (6)
Page 40, line 12—

Omit "cancel", substitute "rescind".

6
Clause 93
Paragraph (h)
Page 56, line 18—

Omit the paragraph, substitute the following paragraphs:

(h) under section 23 (2) refusing to authorise an amendment of a community title scheme; or

(i) under section 81 (1) (a) refusing to consent to the amalgamation of community title schemes.

Schedule 5

STATUTE LAW AMENDMENT BILL 2001

Amendments circulated by Attorney-General

7
Schedule 2
Proposed amendment 2.15
Page 38, line 13—

After "***notification,***", insert "***notification day,***".

8
Schedule 2
Proposed new amendments 2.17A to 2.17P
Page 39, line 10—

After amendment 2.17, insert the following new amendments:

[2.17A]Section 3, notes 1 and 2

substitute

Note 1 The dictionary at the end of an Act usually defines certain words and expressions used in the Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in the Act. However, in this Act the dictionary is divided into 2 parts.

Note 2 Part 1 defines words and expressions commonly used in Acts (including this Act) and statutory instruments. For example, because of the definition '***month*** means calendar month.', the word 'month' has the defined meaning wherever the word is used in an Act or statutory instrument unless the Act or instrument provides otherwise or the contrary intention otherwise appears (see s 144 and s 155 of this Act).

Note 3 Part 2 defines certain words and expressions used in this Act. For example, the signpost definition '***administrator***, for part 18.5 (Service of documents)—see section 246.' means that the expression administrator is defined for part 18.5 of this Act in section 246. A definition in part 2 of the dictionary applies to all of this Act unless the definition, or another provision of this Act, provides otherwise or the contrary intention otherwise appears (see s 155 and s 156 of this Act).

Explanatory note

This amendment is to replace the notes for the *Legislation Act 2001*, section 3 because the existing notes are no longer appropriate. The Bill provides for the provisions mentioned in the existing notes to be transferred to the *Legislation Act 2001*. It also provides for the dictionary to be in 2 parts.

[2.17B] Section 4 (1), note

substitute

Note See s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment updates the reference to the provisions mentioned in the note. The provisions are being relocated to the *Legislation Act 2001* by the Bill.

[2.17C] Section 14 (1), note

substitute

Note ***Writing*** is defined in the dictionary, pt 1.

Explanatory note

This amendment updates the reference to the definition mentioned in the note. The definition is being relocated to the *Legislation Act 2001* by the Bill.

[2.17D] Section 16, note

substitute

Note See s 126 and s 127 for material that is, or is not, part of an Act or statutory instrument.

Explanatory note

This amendment updates the reference to the provisions mentioned in the note. The provisions are being relocated to the *Legislation Act 2001* by the Bill.

[2.17E] Section 18 (2)

substitute

(2) The register must be kept electronically.

Example of how register may be kept

The register may be kept in the form of, or as part of, 1 or more computer databases, and may include data compiled electronically from the databases.

Explanatory note

This amendment will allow greater flexibility in the operation of the computer systems needed for the legislation register. The amendment will avoid the need for individual documents in all cases and allow material such as tables to be compiled from information associated with registered documents.

[2.17F] Section 19

substitute

19 Contents of register

(1) The ACT legislation register must contain the following:

(a) authorised republications of laws currently in force;

(b) Acts as made;

(c) subordinate laws as made;

(d) disallowable instruments as made;

(e) notifiable instruments as made;

(f) commencement notices as made;

(g) resolutions passed, or taken to have been passed, by the Legislative Assembly to disallow a subordinate law or disallowable instrument;

(h) resolutions passed, or taken to have been passed, by the Legislative Assembly to amend a subordinate law or disallowable instrument;

(i) Bills presented to the Legislative Assembly.

(2) The ACT legislation register must also contain the following:

(a) notifications of the making of Acts;

(b) notifications of the making of subordinate laws;

(c) notifications of the making of disallowable instruments;

(d) notifications of the making of notifiable instruments;

(e) notifications of the making of commencement notices;

(f) notifications of the disallowance of subordinate laws or disallowable instruments under section 65 (Disallowance by resolution of Assembly);

(g) notifications of the amendment of subordinate laws or disallowable instruments under section 68 (Amendment by resolution of Assembly).

(3) However, the parliamentary counsel may enter additional material in the register if the parliamentary counsel considers that it is likely to be useful to users of the register.

(4) Without limiting subsection (3), the additional material may include the following:

(a) unauthorised republications of laws currently in force;

(b) past versions of unauthorised republications;

(c) past versions of authorised republications;

(d) statutory instruments that are not registrable instruments;

(e) explanatory memoranda for bills, and amendments of bills, presented to the Legislative Assembly;

(f) repealed Acts and statutory instruments;

(g) Commonwealth laws that apply in or in relation to the Territory.

Note The following sections of the Act deal with the entry of material in the register:

section 28 (Notification of Acts)

section 61 (Notification of registrable instruments)

section 65A (Notification of disallowance by resolution of Assembly)

section 69 (Notification of amendments made by resolution of Assembly)

section 108 (Republication in register).

(5) If the register contains an authorised republication of a law currently in force, and the law is amended, the parliamentary counsel must replace the republication with an authorised republication of the law as amended.

(6) If the register contains an authorised republication of a law, and the law is repealed, expires or, for a subordinate law or disallowable instrument, is disallowed by the Legislative Assembly, the parliamentary counsel must ensure that the republication is no longer shown as a republication of law currently in force.

(7) If the parliamentary counsel considers it likely to be useful to users of the register to enter information (in any form) in the register, the parliamentary counsel may enter the information at any time.

Example

Guides and indexes to the register

(8) If an Act passed by the Legislative Assembly, or a registrable instrument made, before the commencement of this Act need not be notified under this Act, the parliamentary counsel may enter the text of the Act or instrument in the register.

(8) The parliamentary counsel may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.

(9) In this section:

amended includes modified.***law***—see section 107 (Meaning of *law* in ch 11).

Explanatory note

The remaking of section 19 will remove the existing requirement for the register to contain separate parts for the various types of registered material. This requirement would unnecessarily complicate the keeping of the register. The computing system will separate material for user convenience without the need for separate parts to be established legislatively.

The new section would also require Bills presented to the Legislative Assembly to be available on the register. The section also deals comprehensively with notification of the disallowance and amendment of subordinate laws and disallowable instruments by the Legislative Assembly.

[2.17G] Section 22 (1)

substitute

(1) The parliamentary counsel must ensure, as far as practicable, that a copy of the material mentioned in section 19 (1) and (2) (Contents of register) is accessible at all times on an approved web site.

Explanatory note

This amendment is consequential on the remaking of section 19, and removes any reference to separate parts of the legislation register.

[2.17H] Section 24 (1) and (2)

substitute

(1) This section applies to the following:

(a) a copy of an Act, statutory instrument or republication accessible at an approved web site;

(b) any other electronic copy of an Act, statutory instrument or republication.

(2) A copy of the Act, statutory instrument or republication is an authorised version only—

(a) if it is authorised by the parliamentary counsel; and

(b) in the format in which it is authorised.

Example of authorised version accessible at approved web site

A locked pdf file with a digital signature permitting authentication of the downloaded file

Explanatory note

This amendment makes section 24 more accurate by referring to copies of registered material. Section 22 provides that a copy of the registered material must be accessible at an approved web site. New section 24 (2) is also more precise in identifying the characteristics of an authorised version.

[2.17J] Section 24 (3) (b) and (c)

substitute

(b) that a copy of an Act, statutory instrument or republication accessible at an approved web site and purporting to be authorised by the parliamentary counsel is authorised by the parliamentary counsel under this Act; and

(b) that any other electronic copy of an Act, statutory instrument or republication purporting to be authorised by the parliamentary counsel is authorised by the parliamentary counsel under this Act; and

Explanatory note

This amendment is consequential on amendment 2.17H.

[2.17K] Section 28 (2) (b)

substitute

(b) if it is not practicable to notify the making of the proposed law in the register, or make the text of the proposed law and the notification of its making accessible at 1 or more approved web sites, when the law is to be notified—notify the making of the law in the Gazette.

Explanatory note

This amendment is consequential on amendment 2.17F (in particular, removal of the need for separate parts within the legislation register).

[2.17L] Section 28 (4)

substitute

(4) The making of the proposed law is notified in the register by entering in the register—

(i) a statement that the law has been passed by the Legislative Assembly; and

(ii) the text of the law.

Explanatory note

This amendment is consequential on amendment 2.17F (in particular, removal of the need for separate parts within the legislation register).

[2.17M] Section 28 (6) (b)

substitute

(b) the parliamentary counsel must later enter in the register—

(i) a statement that the law has been passed by the Legislative Assembly; and

(ii) a statement that the law was notified in the Gazette on the Gazette date; and

(iii) the text of the law.

Explanatory note

This amendment is consequential on amendment 2.17F (in particular, removing the need for separate parts within the legislation register). It also clarifies the operation of existing section 28 (6) (b). The existing provision refers to the later notification of the making of the law. If the making is notified first in the Gazette, there would strictly be a later entry in the register about the making but not a second notification.

[2.17N] Section 30 (1)

omit

(1)

Explanatory note

This amendment is consequential on amendment 2.17P.

[2.17P] Section 30 (2)

omit

Explanatory note

This amendment is consequential on amendment 2.17M (in particular, providing for a later entry in the register after the making of a law has first been notified in the Gazette). New section 28 (6) (b) removes the need for existing section 30 (2).

9
Schedule 2
Proposed new amendments 2.22A to 2.22C
Page 40, line 24—

After amendment 2.22, insert the following new amendments:

[2.22A]Section 56 (1)

substitute

(1) This section applies if an Act (the ***authorising law***) authorises fees to be determined for 1 of the following (the ***relevant law***):

(a) the authorising law; or

(b) another Act or statutory instrument.

(1A) The authorising law authorises a fee to be determined with respect to any matter under or related to the relevant law.

(1B) To avoid any doubt, a fee may be determined for a provision of the relevant law even though the provision does not mention a fee.

Example

The X Act, section 15 provides for a person to apply for an approval but makes no mention of a fee for the approval. However, section 79 (1) of the Act provides:

The Minister may, in writing, determine fees for this Act.

Because section 79 (1) permits a fee to be determined 'for this Act', section 56 of the *Legislation Act 2001* applies in relation to section 15 and the Minister may determine an application fee for the approval.

Explanatory note

Proposed section 56 (1) recasts the subsection to simplify the language of the subsections that follow. Proposed section 56 (1A) clarifies the scope of the power to determine fees in response to comments of the Scrutiny Committee. Proposed section 56 (1B) makes it clear that a fee may be determined for a provision even though the provision does not mention a fee. The operation of section 56 (1B) is illustrated by an example.

[2.22B]Section 56 (2)

omit

The fee may

substitute

A fee may

Explanatory note

This amendment is consequential on amendment 2.22A.

[2.22C]Section 56

renumber subsections when Act next republished under Legislation Act 2001

Explanatory note

In accordance with current drafting practice, this amendment provides for the subsections in section 56 to be renumbered in ordinary numerical sequence when the Act is next republished.

11

12
Schedule 2
Proposed new amendments 2.23A to 2.23R
Page 41, line 8—

After amendment 2.23, insert the following new amendments:

[2.23A]Section 59 (1)

substitute

(1) The registrable instruments registered in each year must be numbered by the parliamentary counsel as nearly as practicable in the order in which they are notified.

Explanatory note

This amendment will ensure that instruments are generally numbered in the order in which that are notified, whether notification is made in the Gazette or the register.

[2.23B]Section 60 (1)

omit

This section applies if the name that a registrable instrument gives to itself—

substitute

This section applies if a registrable instrument is unnamed or the name it gives to itself—

Explanatory note

This amendment is to authorise the parliamentary counsel to add a name to an unnamed instrument that is to be registered. This refinement would help legislation users in finding instruments on the register.

[2.23C]Section 60 (2) and (3)

substitute

(2) The parliamentary counsel is authorised, before notifying the registrable instrument under this Act—

(a) to add a name to an unnamed instrument; or

(a) to amend the instrument's name to bring it into line with current drafting practice.

(1) If the name of a registrable instrument is added or amended under this section, the instrument has effect for all purposes as if the instrument were made with the name as added or amended.

Explanatory note

This amendment is consequential on amendment 2.23B.

[2.23D]Section 61

substitute

61 Notification of registrable instruments (SLA s 6 (1) (a), (2)-(5))

(1) If a registrable instrument is made, the maker of, or the appropriate person for, the instrument may ask the parliamentary counsel to notify the making of the instrument.

(2) If the maker of, or appropriate person for, a registrable instrument asks the parliamentary counsel to notify the making of the instrument and complies with the requirements (if any) prescribed under the regulations, the parliamentary counsel must—

(a) notify the making of the instrument in the register; or

(b) if it is not practicable to notify the making of the instrument in the register, or make the text of the instrument and the notification of its making accessible at 1 or more approved web sites, when the instrument is to be notified—notify the making of the instrument in the Gazette.

(3) The making of the registrable instrument is notified in the register by entering in the register—

(a) a statement that the instrument has been made; and

(b) the text of the instrument.

(4) The making of the registrable instrument is notified in the Gazette by—

(a) publishing the text of the instrument in the Gazette; or

(b) publishing in the Gazette a statement—

(i) that the instrument has been made; and

(ii) of the place or places where copies of the instrument can be purchased.

(5) If the making of the registrable instrument is notified in the Gazette, the parliamentary counsel must later enter in the register—

(a) a statement that the instrument has been made; and

(b) a statement that the instrument was notified in the Gazette on a stated date; and

(c) the text of the instrument.

(6) If the registrable instrument is notified in the Gazette by publishing the statement mentioned in paragraph (4) (b), copies of the instrument must be available for purchase on the day of the publication (the ***Gazette date***), or as soon as practicable after the Gazette date, at the place, or each of the places, stated in the Gazette.

(7) If on the Gazette date no copies of the registrable instrument are available for purchase at the place, or any of the places, stated in the Gazette, the parliamentary counsel must give the Minister a statement—

(a) that copies of the law were not available; and

(b) explaining why they were not available.

(8) The Minister must present the statement to the Legislative Assembly within 6 sitting days after the Gazette date.

(9) In this section:

appropriate person, for a registrable instrument, means—

(a) for a registrable instrument made or approved (however described) by the Executive—a Minister; and

(b) for rules of a court or tribunal—the registrar of the court or tribunal; and

(c) for a registrable instrument prescribed under the regulations—a person prescribed under the regulations as the appropriate person for the instrument.

Explanatory note

The remaking of section 19 by amendment 2.17F (particularly the removal of the need for separate parts of the register) requires a number of minor, consequential changes to existing section 61. This amendment remakes the section entirely to avoid a lengthy set of amendments to individual provisions. The remade section also provides for later entry into the register (rather than a later notification) if the making of an instrument has first been notified in the Gazette.

[2.23E] Section 63 (1)

substitute

(1)

Explanatory note

This amendment is consequential on amendment 2.23F.

[2.23F] Section 63 (2)

omit

Explanatory note

This amendment is consequential on amendment 2.23D (in particular, providing for a later entry in the register after the making of a instrument has first been notified in the Gazette). New section 61 (5) removes the need for existing section 63 (2).

[2.23G] Section 65, heading

substitute

65 Disallowance by resolution of Assembly (SLA s 6 (7), (7A), (8), and s 10)

Explanatory note

This amendment makes the heading more informative.

[2.23H] Section 65 (2)

substitute

(2) If the Legislative Assembly passes a resolution to disallow the subordinate law or disallowable instrument, it is taken to be repealed—

(a) on the day the disallowance is notified; or

(b) if the resolution provides that it takes effect on the day the resolution is passed—that day.

Explanatory note

This amendment spells out more clearly when the repeal made by a disallowance takes effect and is consequential on amendment 2.23K. It preserves the Legislative Assembly's control over the timing of the effect of a disallowance by allowing it to fix the day of disallowance as the date of effect, even though the disallowance may be notified later.

[2.23J] New section 65 (4)

insert

(4) If subsection (3) applies, the resolution is taken to be the resolution set out in the motion for the resolution.

Explanatory note

This amendment spells out more clearly what the 'resolution' is if a disallowance motion is not actually passed by the Legislative Assembly, but is taken to have been passed. The resolution set out in the disallowance motion is the resolution notified under proposed new section 65A (inserted by amendment 2.23K).

[2.23K] New section 65A

insert

65A Notification of disallowance by resolution of Assembly (SLA s 6 (8) and s 10)

(1) If a subordinate law or disallowable instrument is disallowed, or taken to have been disallowed, under section 65 (Disallowance by resolution of Assembly), the Speaker must ask the parliamentary counsel to notify the disallowance.

(2) If the Speaker asks the parliamentary counsel to notify the disallowance, the parliamentary counsel must—

(a) notify the disallowance in the register; or

(b) if it is not practicable to notify the disallowance in the register, or make the text of the resolution and the notification of its making accessible at 1 or more approved web sites, when the disallowance is to be notified—notify the disallowance in the Gazette.

(3) If the Speaker asks the parliamentary counsel to notify the disallowance on a particular day, the parliamentary counsel must notify the disallowance on that day unless it is impracticable to do so.

(4) The disallowance is notified in the register by entering in the register—

(a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 65; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

(5) The disallowance is notified in the Gazette by publishing in the Gazette—

(a) a statement that subordinate law or disallowable instrument has been disallowed under section 65; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 65; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

(6) If the disallowance is notified in the Gazette, the parliamentary counsel must later enter in the register—

(a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and

(b) a statement that the disallowance was notified in the Gazette on a stated date; and

(c) the text of the resolution passed, or taken to have been passed, under section 65; and

(d) the day when the resolution was passed or taken to have been passed; and

(e) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

Explanatory note

This amendment overcomes a gap in the existing law by providing a mechanism for the notification of a disallowance of a subordinate law or disallowable instrument by the Legislative Assembly. The mechanism provided is similar to that already provided in the *Legislation Act 2001* for Acts (s 28), registrable instruments (s 61) and amendments of subordinate laws and disallowable instruments made by resolution of the Legislative Assembly (s 68).

[2.23L] Section 68 (3)

substitute

(3) If the Legislative Assembly passes a resolution to amend the subordinate law or disallowable instrument, it is amended accordingly—

(a) on the day the amendment is notified; or

(b) if the resolution provides that it takes effect on the day the resolution is passed—that day.

Explanatory note

This amendment spells out more clearly when an amendment of a subordinate law or disallowable instrument made by resolution of the Legislative Assembly takes effect. It ensures the Legislative Assembly's control over the timing of the amendment by allowing it to fix the day the resolution is passed as the date of effect, even though the amendment may be notified later.

[2.23M] New section 68 (4A)

insert

(4A) If subsection (4) applies, the resolution is taken to be the resolution set out in the motion for the resolution.

Explanatory note

This amendment spells out more clearly what the 'resolution' is if an amendment motion for a subordinate law or disallowable instrument is not actually passed by the Legislative Assembly, but is taken to have been passed. The resolution set out in the amendment motion is the resolution notified under section 68.

[2.23N] Section 68 (6)

substitute

(6) Without limiting subsection (5), section 83 (Consequences of amendment of statutory instrument by Act) applies to the amendment as if it had been made by an Act.

Explanatory note

This amendment is consequential on amendment 2.23L (which deals with when an amendment resolution passed (or taken to have been passed) by the Legislative Assembly takes effect).

[2.23P] Section 68

renumber subsections when Act next republished under the Legislation Act 2001.

Explanatory note

In accordance with current drafting practice, this amendment provides for the subsections in section 56 to be renumbered in ordinary numerical sequence when the Act is next republished.

[2.23Q] Section 69 (2) (b)

substitute

(b) if it is not practicable to notify the amendment in the register, or make the text of the resolution and the notification of its making accessible at 1 or more approved web sites, when the amendment is to be notified—notify the amendment in the Gazette.

Explanatory note

This amendment is consequential on amendment 2.17F (in particular, removal of the need for separate parts within the legislation register).

[2.23R] Section 69 (4) to (7)

substitute

(4) The amendment is notified in the register by entering in the register—

(iii) a statement that the amendment of the amended law has been made under section 68 (Amendment by resolution of Assembly); and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

(5) The amendment is notified in the Gazette by publishing in the Gazette—

(iv) a statement that the amendment of the amended law has been made under section 68; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.

(6) If the amendment is notified in the Gazette, the parliamentary counsel must later enter in the register—

(a) a statement that the amendment of the amended law has been made under section 68; and

(b) a statement that the amendment was notified in the Gazette on a date stated; and

(c) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.

Explanatory note

This amendment is consequential on amendment 2.17F (in particular, removal of the need for separate parts within the legislation register) and amendments 2.23L and 2.23M (in particular, the more detailed provisions dealing with resolutions of the Legislative Assembly to amend a subordinate law or instrument).

13
Schedule 2
Proposed amendment 2.25
Page 42, line 4—

Omit the amendment, substitute the following new amendments:

[2.25] Section 91 (8)

omit

an equivalent

substitute

a corresponding

Explanatory note

This amendment will bring the language of section 91 (8) into line with the terminology in proposed sections 126 (7), 127 (6), 134 (7), 135 (6) and 156 (5).

[2.25A]Section 93 (5), note

substitute

Note Section 127 (Material that is not part of an Act or statutory instrument) deals with the status of notes.

Explanatory note

This amendment updates the reference to the provision mentioned in the note. The provision is being relocated to the *Legislation Act 2001* by the Bill.

[2.25B] Section 93 (10)

omit

an equivalent

substitute

a corresponding

Explanatory note

This amendment is intended to bring the language of section 93 (10) into line with the terminology in proposed sections 126 (7), 127 (6), 134 (7), 135 (6) and 156 (5).

14
Schedule 2
Proposed new amendment 2.29A
Page 45, line 2—

After amendment 2.29, insert the following new amendment:

[2.29A] Section 108 (1)

substitute

(1) The parliamentary counsel may republish a law by entering the text of the law in the register.

Explanatory note

This amendment is consequential on amendment 2.17F (in particular, removal of the need for separate parts within the legislation register).

15
Schedule 2
Proposed new subsection 255 (1)
Page 86, line 24—

Omit the subsection.

16
Schedule 2
Proposed new subsection 255 (2)
Page 86, line 26—

Omit everything before paragraph (a), substitute the following subsections:

(1) This section applies if an Act (the ***authorising law***) authorises a form to be approved or prescribed under 1 of the following (the ***relevant law***):

(a) the authorising law; or

(b) another Act or statutory instrument.

(1A) The authorising law authorises a form to be approved or prescribed with respect to any matter under or related to the relevant law.

(1B) To avoid any doubt, a form may be approved or prescribed for a provision of the relevant law even though the provision does not mention a form.

Example

The X Act, section 23 provides for a person to apply for registration but makes no mention of a form for the application. However, section 80 (1) of the Act provides:

The Minister may, in writing, approve forms for this Act.

Because section 80 (1) permits a form to be approved 'for this Act', section 255 of the *Legislation Act 2001* applies in relation to section 23 and the Minister may approve a form for the application.

(1C) Substantial compliance with a form is sufficient.

(2) However, if a form requires—

17
Schedule 2
Proposed new paragraph 255 (3) (a)
Page 87, line 16—

Omit "under the law".

18
Schedule 2
Proposed new paragraphs 255 (4) (a) and (b)
Page 87, lines 28 and 30—

Omit "under a law".

19
Schedule 2
Proposed new subsection 255 (6)
Page 88, line 7—

Omit "to a form approved or prescribed under a law", substitute "in relation to a law".

20
Schedule 2
Proposed amendment 2.41
Page 117, line 31—

Omit "36A", substitute "35A".