DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

9 August 2001

Thursday, 9 August 2001

Thursday, 9 August 2001

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

Legislative Assembly (Broadcasting) Bill 2001

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.33): I move:

> That this bill be agreed to in principle.

In June last year the Standing Committee on Administration and Procedure tabled its report on the operation of the Legislative Assembly (Broadcasting of Proceedings) Act 1997 and recommended that a number of amendments be made to the act to make proceedings of the Legislative Assembly and its committees more accessible to the public. In its response to the committee report, the government agreed that the current legislation is not sufficiently flexible and needed to be amended.

There are specific difficulties with the administration of the current act in providing access to proceedings. Currently, the legislation requires the Speaker to authorise access to the broadcasting or televising of proceedings every time there is a request. Time taken to administer authorisations for access to the broadcasts is an inefficient and costly process. The act also imposes a range of processes that constrain flexibility. The act limits access to Assembly broadcasts to government employees and lacks flexibility in providing access to the broadcasting of committee inquiries. For example, it blocks access to officers in organisations such as territory-owned corporations. These restrictions were unintended.

This bill amends the current legislation to facilitate open access to the proceedings of the Assembly, thereby providing more flexibility in the administration of the legislation. This bill will replace the Legislative Assembly (Broadcasting of Proceedings) Act 1997 as the proposed amendments would have resulted in the Legislative Assembly (Broadcasting of Proceedings) Act 1997 being almost entirely replaced.

The proposed bill streamlines processes and facilitates greater access to the workings of government. This bill includes the broad principles on access in the legislation, whilst providing for the more technical detail to be addressed by resolution of the Assembly. In order that the Assembly can maintain control over how the broadcasts are used, the bill introduces a mechanism to withdraw access as there will inevitably be circumstances when the Assembly or its committees may need to withdraw the right to record or broadcast proceedings.

This bill extends the broadcasting of the Assembly and its committees to a wider audience than was previously possible. It has the potential to involve the community more closely in the workings of democracy and reflects the government's commitment to open and accessible government. Open government encourages community interest and has the potential to build common goals, civic pride, networks and trust. These changes to legislation in the long term will involve a larger community audience in the workings of government by ultimately opening up access so that a citizen of the ACT will be able to log into proceedings at any time during sitting periods or public committee hearings. Making government and the Assembly more accessible to Canberrans reflects my commitment to building social capital.

The bill provides access to the audio and/or visual recording and broadcasting of all public proceedings of the Legislative Assembly and its committees, subject to any conditions or guidelines specified by resolution of the Legislative Assembly. It enables the Legislative Assembly to withdraw the right to record or broadcast the public proceedings of the Legislative Assembly. It empowers the Assembly, by resolution, to delegate to the Speaker and/or its committees the authority to withdraw the right to record or broadcast proceedings. It also enables the Legislative Assembly to determine processes, by resolution, by which the right to record or broadcast the public proceedings of committees can be withdrawn. Finally, the bill repeals the 1997 act. I commend the bill to the Assembly.

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

Cooperatives Bill 2001

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.37): I move:

> That this bill be agreed to in principle.

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

Leave granted.

The speech read as follows:

> Mr Speaker, in March 2000 the Government tabled the Cooperatives *Bill 2000.* At that time debate on the Bill was adjourned.
>
> Since then there has been a number of proposed amendments to that Bill. While large in number, most of these amendments are minor in nature and are generally not policy related. However, rather than presenting a large volume of amendments to the Assembly, a new Cooperatives Bill has been drafted incorporating those proposed amendments. I now present the new Bill, the Cooperatives *Bill 2001,* to the Assembly.

These amendments were required for a number of reasons. Firstly, the Scrutiny of Bills and Subordinate Legislation Committee identified a number of clauses that required amendment including clauses which provided for the Administrative Appeals Tribunal to be the point of review for certain decisions of the Registrar of Cooperative Societies, instead of the Supreme Court.

Secondly, the Cooperatives Bill included extensive references to the Commonwealth's corporation legislation. Since the tabling of the ACT Bill, there has been extensive revision to the Commonwealth's Corporation legislation, especially with respect to the structure, terminology and layout of the legislation. These changes, in turn, have resulted in the need for considerable amendments to be made to the Cooperatives Bill originally tabled in March 2000.

Thirdly, Parliamentary Counsel has made a number of changes. Most of these changes arise out of improvements to drafting methodology and presentation.

The drafting of the Cooperatives Regulations called for further minor amendments to be undertaken to improve the presentation of the Bill. Being of a relatively minor nature, these amendments do not entail policy changes.

Finally, the Cooperatives Bill was then examined in the light of the Territory's national competition policy commitment. As a result, clause 74 has been omitted and clause 120 has been amended.

The retention of clause 74 would have allowed, in principle, cooperative societies to impose unfair trading constraints on their members. Retention of this clause would place the onus on the ACT Government to demonstrate public interest grounds for retaining it. The ACT Government would need to report to the Australian Competition and Consumer Commission to seek this exception. However, cooperatives are still able to seek exemptions to the Commonwealth's Trade Practices Act if they wish to adopt particular trading practices with their members. This is the only proposed policy-related amendment.

As I have previously pointed out, the current ACT legislation regulating co-operative societies is obsolete to the cooperative sector, the activities of community and does not meet industry requirements.

Further, all other jurisdictions of Australia, with the exception of Western Australia, have enacted new legislation reforming their cooperatives legislation through a comprehensive set of core consistent provisions. Indeed, this legislation is part of a process whereby each state and territory, by consensus, has moved or is moving towards consistent cooperative legislation.

These core provisions relate to the establishment, operation and regulation of cooperative societies as mutual organisations controlled democratically by their members.

The core consistent legislation incorporates provisions which allows cooperatives to have wider corporate powers, and facilitates fund raising by cooperatives including cross-border fundraising and trading. It improves the process of winding-up, and enhances the provisions relating to directors' duties and facilitates and regulates takeovers, mergers, transfers of engagements, arrangements and reconstructions.

> The legislation also improves the requirements for disclosure to members when cooperatives are formed and when shares and debentures are issued. Furthermore, the legislation introduces active membership requirements.
>
> The consistent provisions are particularly important to cooperatives which trade across state and territory borders. It will remove the need for cooperatives to comply with differing legislative requirements depending upon the states or territories in which they operate.
>
> The non-core provisions relate to local matters such as references to other legislation and the nature of the office of the regulator.
>
> Overall, this Bill will assist the local cooperative sector and cooperative societies in general as a form of business and community activity.
>
> I commend the Cooperatives Bill 2001 to the Assembly.

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

Financial Management Amendment Bill 2001 (No 3)

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

Title read by Clerk.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.38): I move:

> That this bill be agreed to in principle.

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

Leave granted.

The speech read as follows:

> Mr Speaker, I am pleased to present these amendments to the Financial Management Act 1996.
>
> The Financial Management Act 1996 is the cornerstone upon which the effective financial management of the Territory rests. The Act reinforces the primacy of the Legislative Assembly's role in the parliamentary budget and financial accountability process; promotes the highest standards of financial accountability to the Legislative Assembly and the community; enhances transparency in budget decision-making at all levels; and promotes improved, and better-informed, management decision-making.
>
> Mr Speaker, to ensure that the Financial Management Act continues to fully meet these objectives, the Department of Treasury is undertaking a staged review of the Financial Management Act.

The first stage of this review has focussed on technical amendments to the Act required to eliminate ambiguities and avoid technical breaches of the Act. The second stage of the review is focussing on issues that have greater policy implications or complexity and will address some of the more fundamental issues:

It is amendments dealing with the initial stage of the review that I am tabling here today in the Financial Management Amendment Bill 2001 (No 3).

Mr Speaker, I again emphasise that the amendments set out in this Bill are largely technical in nature. The amendments will eliminate inconsistencies and ambiguities, refine definitions and terminology and allow for the improvement of financial management practices and processes.

Mr Speaker I now wish to turn to the major provisions of this Bill.

Mr Speaker, this Bill proposes a number of amendments in relation to the borrowing and investment activities of Territory authorities. These amendments will strengthen the financial management of Territory funds and remove a number of inconsistencies within the Financial Management Act.

The Financial Management Act provides that Territory authorities may only borrow money with the approval of the Treasurer. In the interest of providing full and transparent accountability it is also considered appropriate that where the Territory lends money to a Territory authority such transactions require appropriation and warrant. The Financial Management Act is, however, currently unclear on this matter.

Mr Speaker, amendments provided for in this Bill will clarify that the Territory may only lend money to a Territory authority where funds for such a transaction have been appropriated and approved by warrant. This will ensure that the Assembly will be able to consider the merits of such a loan before it is issued**.**

I am also proposing to amend the financial management guidelines to provide`that loans to Territory authorities are no longer prescribed as an investment under paragraph 38 (1) (e) of the Financial Management Act.

Mr Speaker, I repeat that these proposed amendments to the *Financial Management Act* and the financial management guidelines will provide a greater level of scrutiny by the Assembly in the event that Government decides to issue a loan to a Territory authority.

Mr Speaker, the definition of public Money in section 3 of the Financial Management Act provides that all money received by the Territory is public money. The definition, however, excludes money received by a Territory authority. This is consistent with the principle that Territory authorities operate at arm's length with the Government.

The Finance and Investment Group invests funds on behalf of several Territory authorities. Funds are therefore transferred from Territory authority bank accounts to the Territory Banking Account for the purpose of investment. The current defnition of public money requires clarification that such funds received for investment remain outside the definition of public money. These amendments will provide for such clarification.

In undertaking investments for Territory authorities, the Finance and Investment Group pays interest to Territory authorities on their investment. Section 56 of the Financial Management Act provides that interest received from the investment of Territory authorities' funds by the Finance and Investment Group remains the funds of the Territory authorities. Amendments will clarify that the payment of interest to Territory authorities may be made without warrant, and that the Finance and Investment Group may retain management fees for the provision of the investment service.

Mr Speaker, the Financial Management Act currently requires that where a Territory authority undertakes a borrowing that is not facilitated by the Finance and Investment Group, the loan must first be paid into the Territory Banking Account and from there, paid to the Territory authority.

Now remember Mr Speaker, as I have previously said, the Financial Management Act requires that the Treasurer must first approve "All" loans and borrowing of a Territory authority. The process of funnelling a Territory authority loan, which has not been facilitated by the Finance and Investment Group, through the Territory Banking Account is therefore cumbersome and unnecessary. It does nothing to increase accountability or add to the scrutiny process for such a loan.

This Bill therefore proposes amendments that will deiete the requirement for the proceeds of loans raised by Territory authorities, which are not facilitated by the Finance and Investment Group for Territory authorities, to be paid into the Territory Banking Account. Loans facilitated by the Finance and Investment Group will of course continue to be made from the Territory Banking Account and as such will require appropriation and warrant.

Mr Speaker, the Financial Management Act 1996 requires the Territory, departments and Territory authorities to prepare budgets and financial statements consistent with the Australian Accounting Standards that were in place at the time the Financial Management Act was enacted.

Changes to the Australian Accounting Standards have subsequently renamed the operating statement and the statement of assets and liabilities to be the Statement of Financial Performance and the Statement of Financial Position respectively. This means that the Financial Management Act requires the Territory, departments and Territory authorities to prepare a set of financial statements that are no longer consistent with the Australian Accounting Standards. To avoid any such future conflict between the Act and the Australian Accounting Standards, this Bill proposes amendments which will replace specific references in the Financial Management Act that require the Territory, departments and Territory authorities to prepare an operating statement, a statement of assets and a cash flow statement with generic financial reporting requirements.

The more detailed financial reporting requirements will be specified in the financial management guidelines issued by the Treasurer under section 66A of the Financial Management Act. These guidelines will require the Territory, departments and Territory authorities to prepare a Statement of Financial Performance, a Statement of Financial Position and a cash flow statement. This will ensure that the level of financial information available to the Assembly and the community will not be less than that that was previously available.

This move will allow more flexibility to reflect future changes to the Accounting Standards within the Territory's reporting framework. Financial guidelines can be updated more readily than legislation to reflect such changes. Mr Speaker, Members are reminded that financial guidelines are a disallowable instrument and therefore any change to the guidelines will need to be approved by the Assembly. This provides an important mechanism to ensure the level of scrutiny available to the Assembly is not diminished.

The Financial Management Act will continue to provide that the Territory, Territory authority and departmental annual financial statements are prepared in accordance with generally accepted accounting practices.

Mr Speaker, in conclusion I would like to emphasise that this Bill contains no agenda other than a commitment to accountability, prudent fiscal management and improved transparency and di,4closure. I trust that Members will support this Bill.

Mr Speaker, I commend this Bill to the Assembly.

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

Agents Amendment Bill 2001

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

Title read by Clerk.

MR STEFANIAK (Minister for Education and Attorney-General) (10.39): I move:

That this bill be agreed to in principle.

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

Leave granted.

The speech read as follows:

Mr Speaker, this Bill makes two important changes to the Agents Act 1968 .

Restrictions on where agents can operate

In 1996, the Assembly passed amendments to the *Land (Planning and Environment) Act 1999* allowing small businesses to operate from home in certain circumstances. Since that time, a number of small businesses have taken advantage of these amendments.

Unlike other small business operators, agents have not been able to take advantage of this beneficial change. The requirements of sections 48 and 49 of the *Agents Act* have effectively prohibited agents from operating a business from home.

Mr Speaker, there is no policy rationale for retaining the restrictions when the law allows other small businesses to operate outside city and shopping centers.

Accordingly, this Bill removes this anomaly.

Clarification of the law - Compensation claims

The second amendment concerns claims for compensation under the Agents Fidelity Guarantee Fund.

Under the Agents Act, a person who suffers pecuniary loss by reason of a failure to account by a licensed agent may file a claim for compensation with the Agents Board.

A recent case, involving a claim for compensation with the Board, highlighted uncertainty concerning the operation of the requirements for making a claim. In particular, the Administrative Appeals Tribunal held that provisions that had previously been considered to be mandatory were not mandatory.

This Bill removes .the uncertainty caused by the decision. It makes it clear that the procedural requirements of the law are mandatory and must be complied with before a claim with the Board can be entertained. This requirement will lend certainty in the management of the claims process.

Let me make it clear, however, that it is not the intention of the amendments to discourage legitimate claims. In fact, to ensure adequate time is allowed for claims to be lodged, the limitation period of six months to make a claim is being extended to one year.

Mr Speaker, I commend the Bill to the Assembly.

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

Referendum Bill 2001

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

Title read by Clerk.

MR STEFANIAK (Minister for Education and Attorney-General) (10.40): I move:

That this bill be agreed to in principle.

Mr Speaker, drug use—in particular, heroin use—is a very real problem in our community. It is estimated that the ACT has between 1,000 and 1,500 dependent heroin users, with 1,300 individuals collecting injecting equipment on a monthly basis.

The ACT drug trends 2000 report found that previously reported increases in heroin use generally and increases in the number of young users continued unabated in 1999-2000. The increase in the number of indigenous users also appeared to have accelerated. An ACT survey conducted last year by the National Drug and Alcohol Research Centre, and reported in drug trends 2000, showed that, of 100 injecting drug users interviewed, some 58 per cent had committed at least one crime in the preceding month. The most commonly reported crimes were drug dealing and property crimes. Our police tell us that if we are to beat the crime problem on a sustained basis we have to address the drug problem.

Australia's health 2000 reports that the injection of illicit drugs can have significant adverse health effects, including drug overdose, the acquisition of blood-borne infection such as HIV or hepatitis C virus, and other illnesses from the injection of contaminants or impure substances. Heroin overdose deaths were in the top 20 causes of years of lost life for males, resulting in almost as many years of life lost as HIV/AIDS or leukaemia. A 1998 survey of injecting drug users visiting needle exchanges found that 2 per cent tested positive to HIV antibodies and 49 per cent tested positive to HCV antibody.

It has been estimated that every hour an injecting drug user somewhere in Australia contracts hepatitis C, an illness that will kill one in five sufferers. Studies have suggested that between 2 and 3 per cent of heroin users die each year. In the ACT, there were 16 deaths due to heroin overdose in 1998 and eight in 1999. There were 13 confirmed overdose deaths in 2000, eight of those confirmed heroin deaths and three the result of heroin and prescription drugs.

In 1999-2000, there were around 1,000 ambulance attendances in response to drug-related calls, almost half of which related to heroin. Across the country, opioid overdose deaths constitute the majority of deaths due to illicit drug use and an increasing proportion of all deaths, especially among the 25 to 34-year-old age group. It is likely that this trend will continue as new cohorts are recruited to heroin use in increasing numbers and at younger ages.

Clearly, we have a problem. It is a problem that this Assembly, to its credit, has not ignored. Indeed, whether members of the Assembly agree with it or not, I think that the Assembly does deserve praise for having the courage to at least examine ways to counter the harm done by heroin. The proposal for a heroin trial was developed as a way of breaking the link between the heroin-dependent person and the criminal supply of heroin. The supervised injecting rooms was put forward as a way of decreasing the risks associated with injecting drugs. At the end of the day, neither proposal eventuated. One was obstructed by the federal government and the other was denied funding by the Assembly.

This bill seeks to put those two initiatives to the people of Canberra. No matter whether you support these initiatives or oppose them—we all have different views on that—our collective efforts to do something about the drug problem in Canberra have stalled. The government sees a referendum as a way of helping to break the impasse one way or another. Support for either of the measures we propose to put to the people of Canberra will provide a blueprint for the way forward. Conversely, lack of support for either measure will send a clear signal that the community would want these measures off the agenda and other alternatives pursued.

It would be a foolish Assembly, or federal government, that blocked the will of the people. I believe that neither the Assembly nor the federal government should seek to deny the people of the territory their expressed wish for tackling one of the biggest social and health problems confronting the community.

Some advocates of a heroin trial or supervised injecting room have voiced some concern about the referendum. They say that they are worried that people will not be sufficiently informed to make a judgment on these issues. They say that they are worried that the

debate leading up to the referendum will be characterised by simplistic statements. I believe that the Canberra community will not be swayed by simplistic argument. They have a sophisticated understanding of the problems involved. I do not think that they will be hoodwinked by cheap rhetoric on either side. Arguing against a referendum on the basis that the people of Canberra are not sufficiently educated on the issues is no different from the argument put forward a century ago denying women the vote. The argument, of course, is bunkum.

This referendum offers us all a way forward. Most importantly, the referendum provides an opportunity for the people of Canberra to have their say. The government believes in community consultation. We believe in giving the community a greater say in government decision-making. To help promote debate in the community, the government will provide $20,000—that is, $5,000 for those developing a case on each of the two questions, to assist with the preparation and advocacy of cases. We will also establish a dedicated website with factual information and links to authoritative sites where further information can be found. For those without Internet access, we will also be looking at providing factual background information through our libraries and shopfronts.

I turn to the specifics of the bill. It contains two questions. Firstly, do you approve the running, in the ACT, of a trial of a supervised injecting room for people dependent on heroin? Secondly, do you approve the conducting of a clinical trial, in the ACT, for the controlled provision, under medical supervision, of heroin to people registered as dependent on heroin?

Members will recognise that there is a major issue with the referendum proposal. Current legislation requires that those members who vote in favour of a referendum proposal will form the affirmative team in terms of establishing the yes case, and vice versa. That would create a problem in the case of these issues as it is most likely that there will be members who will be in favour of a referendum, whilst wanting to be part of the no case. Accordingly, the bill provides for just such an eventuality, by requiring that members notify the Speaker, after a successful passage of the bill, which side of the debate they wish to be on. It will therefore be possible for members to be on the yes case for question one and the no case for question two, or vice versa or any other combination. A two-thirds majority will be needed for approval of each case.

The balance of the bill simply addresses the technical requirements of holding a referendum in this way. I commend the bill to the Assembly.

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

Rehabilitation of Offenders (Interim) Bill 2001

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

Title read by Clerk.

MR MOORE (Minister for Health, Housing and Community Services) (10.48): I move:

> That this bill be agreed to in principle.

The Rehabilitation of Offenders (Interim) Bill 2001 will enable the establishment of a home detention scheme and increase the authority and efficiency of the Parole Board, which is to be known as the Sentence Administration Board. Home detention is to be introduced for both adults and young people as a remand option where bail has been denied and as a means of serving a period of imprisonment or committal to an institution of not more than 18 months.

Home detention will be made available for young people in keeping with the government's commitment to offer intensive supervision to young people whilst maintaining them within their family and community. The operation of the home detention program will be consistent with the principles of the Children and Young People Act 1999.

Members will note that this is an interim bill. That is because it is one step in the process of reviewing all adult corrections legislation in order to unify and modernise the operations of the correctional system. However, as this term of the Assembly comes to a close, and with little available sitting time before the pre and post election period, the government believes that the material in this interim bill warrants immediate attention.

Before detailing the contents of the bill, I would like to give a brief indication of the wider review of legislation. Research into adult criminal legislation across Australia reveals that relevant legislation is generally classified into three categories: legislation prescribing what constitutes a criminal offence; legislation which provides for the sentencing dispositions available to the courts; and legislation dealing with correctional issues regarding implementation of a sentence.

At present, both criminal offence issues and sentence processes in the ACT are included in the Crimes Act 1900. Correctional issues are dealt with by a number of acts, including the Remand Centres Act, the Periodic Detention Act, parts 15 to 15B of the Crimes Act, the Supervision of Offenders (Community Services Orders) Act, the Custodial Escorts Act, the Removal of Prisoners Act and the Parole Act. In the process of developing legislation for the prison, the territory has the opportunity to consolidate into one instrument current legislation across a variety of correctional issues. Furthermore, in the process of consolidating correctional legislation, we have the opportunity to provide for a truly innovative systemic approach to correctional intervention.

As a prison is introduced into the territory, we must ensure that the focus on expanding and strengthening alternatives to imprisonment is not lost and that we remain focused on our objectives. Our primary objective in the treatment of offenders is to maximise community safety and to promote offender rehabilitation. Imprisonment is the most severe sanction accepted by our society. As such, it should be reserved for those individuals or offence types that pose the greatest risk to the community.

It is well documented that prisons are the most costly sentencing option and the least effective in rehabilitative terms. There is also strong evidence that alternative treatment programs and methods implemented in the community produce positive rehabilitative results. The government has established such programs in adult community corrections and is currently expanding treatment programs for people detained at the Periodic Detention Centre and the Belconnen Remand Centre. Empirically sound assessment instruments are being used to identify offenders posing the greatest risk of reoffending

and to determine the best type of treatment for each offender. Offender rehabilitation has become a knowledge-based industry and we must recognise this expertise in legislation.

The government proposes to consolidate existing corrections legislation into one act, the first stage of which is this bill. The act will form the basis of a new model of correctional intervention, one that heralds a new approach to old problems and one that precedes and prepares the role of the ACT prison.

New legislation will provide for an integrated case management system in which the needs of individual offenders, as well as the risk each individual poses to the community, are identified at the earliest state of corrections involvement. A highlight of the new model will be a through-care system which will feature individual case management plans that determine the most appropriate rehabilitative treatment. The plans and treatment will be dynamic and will reflect each stage of the correctional system as the offender progresses through it according to their responses to the interventions provided.

Assessment, planning and evaluation are important features of each stage of the process from pre-sentence assessments through probationary supervision, work orders, programs, home detention, incarceration and parole. Interventions must be tailored to address those factors directly related to criminal behaviour. New sentencing and post-sentence rehabilitative options made available to the courts must allow the offender's assessed risk and needs to be matched to the most appropriate available option. Home detention will operate within this model.

Home detention, as proposed in this bill, will provide a further means of diverting offenders from full-time custody. Adult offenders eligible for home detention will have been either remanded in custody or sentenced to a period of imprisonment of 18 months or less. Young offenders eligible for home detention will have been denied bail or committed to an institution for not more than 18 months. Serious and violent offenders will be specifically excluded from the scheme. Eligible offenders will need to meet suitability requirements, including stable accommodation. Family members and other stakeholders will be consulted as to an offender's suitability for home detention.

Electronic monitoring and intensive supervision will be used to ensure compliance with curfews imposed under home detention. This involves the installation of a home monitoring unit in the offender's residence. Each offender will be required to wear a tamperproof wristlet or anklet that sends a continuous signal to the home monitoring unit. The unit can be programmed with a range of times at which the offender should be present or absent from the home. Any breach of these requirements will send an alert directly to a central monitoring computer. This, in turn, will signal an automatic paging system to the home detention officer for a prompt response.

The case management of offenders subject to home detention will be intensive, including surveillance and rehabilitative components. Offenders will be required to take responsibility for and actively participate in their rehabilitation. To this end, they will perform either paid or unpaid work and will attend educational or rehabilitative programs. They will also be required to submit to urinalysis drug screening and breath alcohol analysis. Sentenced adult offenders for whom a court has set a non-parole period and who are subject to home detention may be eligible for release on parole.

This bill will establish the Sentence Administration Board in place of the existing Parole Board. The new board will have a membership of up to 11 community representatives from whom the chair will be able to create divisions to perform specified board functions. This will increase the capacity of the board, enabling it to continue to carefully consider each case individually and expedite administrative functions.

The board will have the power to issue warrants, consistent with legislation governing parole in other jurisdictions, and will be able to consider issues of non-compliance with parole orders after the orders have expired. This is an important justice issue, given that a breach that currently occurs during the parole period cannot be considered after the parole order has expired. This means that where an offender has breached an order and is not brought before the board during the parole period, there may be no consequence for the breach. Consequences are an important behaviour modification strategy. The new board will consider every breach, regardless of whether the order has expired.

The availability of home detention for young people will allow the courts to provide a sentencing option that emphasises the seriousness of the offence whilst diverting the young offender from custody. This reflects best practice intervention with young people, whilst acknowledging through legislation the best interests of the young person within the context of the Children and Young People Act 1999.

In conclusion, the longer-term goal of this government must be to see the terms and practice of case management and through care captured in legislation. This interim bill will enable the process to begin by introducing a new sentencing option which allows for the maintenance of family and community ties and enables offenders to reintegrate with the community under intensive correctional supervision and support.

Home detention will be a significant step in the process of revising correctional legislation in the territory. Establishment of the Sentence Administration Board is pre-emptive of increasing the role and functions of the board, the appropriateness of which will become apparent as the larger review of legislation progresses. Mr Speaker, I commend the bill to the Assembly.

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

Road Transport (Public Passenger Services) Amendment Bill 2001

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

Title read by Clerk.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.58): I move:

> That this bill be agreed to in principle.

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

Leave granted.

The speech read as follows:

The Road Transport (Public Passenger Services) Amendment Bill 2001 (the Amendment Bill) provides the regulatory environment for public passenger taxi services in the ACT. The features of the Amendment Bill are in accordance with the Government's response to the National Competition Policy review of legislation governing the ACT taxi and hire car industries.

Although currently taxi legislation is contained in the *Road Transport (General) Act 1999*, the *Road Transport (Public Passenger Services) Act* 2001 is riow the appropriate place for taxi legislation and therefore the later Act is to be amended to include the new provisions. Together with the provisions for public passenger bus services already provided in the *Road Transport (Public Passenger Services) Act* 2001, a streamlined yet comprehensive legislative framework for public passenger services is created.

The Amendment Bill has been prepared to strengthen the public safety, service quality and consumer protection elements of taxi service provision. In response to the National Competition Policy Review of ACT Taxi and Hire Car legislation, the Government agreed to a number of policy changes in relation to the regulation of taxi and hire car services.

The Bill covers standard taxi services and restricted taxi services (of which wheelchair accessible taxis are the main sub-category). It does not cover hire car services as the Assembly has resolved that there should be no changes to the hire car industry prior to the presentation of the report on the Standing Committee on Planning and Urban Services' inquiry into hire cars.

The Bill brings ACT taxi service legislation more into line with that operating in NSW and will facilitate agreement of cross-border arrangements.

The Amendment Bill introduces an accreditation scheme for all taxi service operators. No operator can provide services without accreditation. To gain and keep accreditation, operators will be required to meet requirements similar to those that apply in other jurisdictions.

A modest fee regime will cover the cost of administration to establish and monitor the accreditation scheme. The fees will be reasonable.

Accredited operators may use licensed taxis only and must be affiliated with an accredited taxi network. The Amendment Bill includes expanded provisions for network accreditation. Network accreditation standards will ensure that the industry maintains high quality services and safety standards.

The legislation significantly increases both operator and network responsibility and accountability for service standards and performance. Networks are obliged to supervise and monitor operators and drivers, and to assist the Road Transport Authority to monitor the network's performance.

New provisions outline the actions that may be taken in relation to an accredited operator, a licence holder or an accredited network should there be a breach of an accreditation or regulatory requirement.

The legislation provides for tests to be used in assessing accreditation applications. This will allow the Road Transport Authority to apply 'fit and proper' tests to applicants for operator and network accreditation.

Under the provisions of the Bill, it will be at the discretion of the Road Transport Authority to audit operators and network providers to determine compliance with the accreditation requirements and to maintain service quality and public safety.

Similar to the approach adopted in *the Road Transport (Public Passenger Services) Act 2001*, the Amendment Bill provides that the powers, duties, conduct, training and attire of drivers may be regulated. The legislation also maintains the power of the Minister to determine maximum taxi fares.

Two provisions previously included in the taxi legislation in the *Road Transport (General) Act 1999* have not been carried over to the Amendment Bill, based on recommendations of the National Competition Policy Review. These Items are the requirement for the Minister to set a reserve price for a taxi licence and the provision limiting the number of licences that may be held by a person to two.

The Road Transport (Public Passenger Services) Amendment Bill 2001 contains significant changes to the regulatory environment for taxi services and provides the framework for the provision of services that are responsive to community needs for safe, reliable and efficient public passenger taxi services.

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

Stock Amendment Bill 2001

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

Title read by Clerk**.**

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.59): I move:

That this bill be agreed to in principle.

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

Leave granted.

The speech read as follows:

This Bill will increase the coverage of material banned from being fed to ruminants. Just in case any members are uncertain, a ruminant is an animal with four stomachs and which chews its cud. Sheep, cattle and goats are the obvious examples.

There is an unproven link between bovine spongiform encephalopathy known as BSE or 'Mad Cow Disease' and the variant form of Creutzfeld-Jakob Disease, which affects humans.

> It is believed that BSE spreads between cattle and other ruminants through feed products made from BSE-infected animals. In Britain, a number of deaths are believed to have resulted from humans eating beef from cattle infected with BSE.
>
> The ACT Legislative Assembly passed amendments to the StockAct 1991 in March 1999, banning the feeding of certain mammalian products to ruminants.
>
> Recent developments in Europe have indicated that a series of actions need to be undertaken to make sure we retain our disease free status and protect public health.
>
> The most recent meeting of the Agriculture and Resource Management Council of Australia and New Zealand, in March 2001, discussed the implications for Australia of BSE.
>
> Council members resolved to introduce legislation in their respective jurisdictions to increase the coverage of material banned from ruminant feeds. The proposed amendments to the StockAct 1991 will ban the inclusion of certain mammalian products, and poultry and fishmeal in ruminant feeds.
>
> The Government has not sought to amend legislation earlier because ,wording of the changes needed to be consistent with other States. Agreement on appropriate wording has now been achieved.
>
> I should add that enacting this legislation will have no impact on primary producers in the ACT because such feed additives are not currently used here. Nevertheless, it is important that the ACT is not to be seen as a weak link in the chain of Australia's beef industry.
>
> Mr Speaker, I commend the Bill to the Assembly.

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

Building and Construction Industry Training Levy Amendment Bill 2001

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

Title read by Clerk.

MR STEFANIAK (Minister for Education and Attorney-General) (11.00): I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill is a small amendment to the Building and Construction Industry Training Levy Act 1999 to close a loophole that has inadvertently excluded certain types of construction from liability to pay the training levy.

As members will recall, the original act introduced a 0.2 per cent training levy payable on the construction of any building or developmental work in the ACT. The training levy applies to all work except work valued at less than $10,000 and that undertaken directly by the Commonwealth or ACT government departments. The levy is payable on all work contracted out by government. The Building and Construction Industry Training Levy

Act 1999 intends that the training levy apply to all building and construction work as outlined in the schedule attached to the act. As well as the construction of buildings, the schedule covers all construction, repair, demolition or removal of such entities as roads, railways, dams or reservoirs and pipelines or electrical, communications or data networks.

The act was amended in November 1999 to facilitate the collection of the levy through a mechanism similar to that used for the collection of levies under the Building Act 1972. This approach required a change to the definition of "the owner of the work". An unintended consequence of this change of definition was to exclude work such as the installation of underground cables or telecommunication lines on poles on public land or on easements.

It has become apparent that there is much cabling work currently being undertaken by telecommunications and power companies that is not included in the act by virtue of the wording of the Building and Construction Industry Training Levy Act 1999. The likely loss of income to the training levy is in the order of $179,000 per annum. To remove this loophole, which is contrary to the intent of the act, the definition of "owner of the work" has to be broadened to include owners of work involving the laying of cables underground or overhead on public land or on easements on land owned by other parties.

It has also become apparent that the valuer referred to in the act is not necessarily competent to estimate the value of certain types of engineering construction and non-building development. The use of the term "valuer" is generally related to persons valuing building construction by estimates of floor area. Such persons are not competent to estimate the value of non-building construction such as roadworks and telecommunication networks. The range of persons referred to in the act to estimate the value of the work needs to be broadened and made more specific to include quantity surveyors, engineers and architects. That is being done separately through the Building and Construction Industry Training Levy Regulations 2001.

The amendment proposes to close the loophole in the most direct way by broadening the definition of "owner of the work" to include projects carried out on public land or on easements on land owned by other parties. In addition, there is an amendment to make more precise the meaning of item 11 of the schedule of work for the purposes of the act. The amendment is simply to delete the term "on-site" so that item 11 reads, "Electrical, electronic, communications or data networks or mechanical services work, including work that is related to the construction, erection, installation, alteration, repair, servicing or dismantling of any plant, plant facility or equipment". That removes any ambiguity surrounding whether an electric pole tower or pole on public land is a building site.

In future, the training levy will be collected for all work listed in the schedule attached to the Building and Construction Industry Training Levy Act 1999, including non-building construction on public land and easements. The proposed amendments will impact only on those companies or agencies erecting cables on power lines in or on other structures in public places and/or easements.

Building and construction businesses other than cable laying companies would react favourably to the move to ensure that the levy is related fairly to all relevant construction activity. They would welcome a more even playing field. They would also welcome the

additional training levy revenue providing more funds for training in the ACT. This is the only impact on business.

Mr Speaker, construction and development companies would also welcome more appropriately qualified personnel, such as engineers, quantity surveyors and architects, being available to determine the value of non-building work. The definition has been broadened in such as way as to make clear that if, for example, cables are laid by a telecommunications company on land owned by the ACT government, the levy will attach to the telecommunications company as owner of the work, not to the ACT government.

As members can see, the amendments are quite simple and straightforward. They make a significant improvement to the act. The technical amendments bring the act into line with current drafting practice. Mr Speaker, I commend the bill to the Assembly.

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

Food Bill 2001

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

Title read by Clerk.

MR MOORE (Minister for Health, Housing and Community Services) (11.04): I move:

> That this bill be agreed to in principle.

The ACT Department of Health, Housing and Community Care is notified of around 650 cases of food-borne illnesses each year. International studies suggest that these reported cases may represent only 1 per cent of the total number of actual cases which occur in the ACT. Taking account of the underestimation, there could be as many as 180 cases per day or 65,000 cases per year of food-borne illness in the ACT. Nationally, this suggests that each day around 11,500 Australians get sick with food poisoning.

This problem is costing our community, including the food industry, far too much in human and economic terms. Data suggests that the nation's annual bill for food-borne illness is about $2.6 billion per annum, or $5 million a week. For the ACT, this equates to around $29 million per year or $560,000 a week. As we all know, food poisoning is not an illness to be taken lightly. It can kill. The people who are most vulnerable are the elderly, children and those with suppressed immunity to infections.

To attempt to combat the ever increasing rate of food-borne illness and to standardise the composition and labelling of food, in 1991 the Australian states and territories agreed to adopt, through an intergovernmental agreement, a national system for food regulation. This agreement included details on the creation of the national food authority, a ministerial council, an advisory committee and the uniform adoption of the Australian food standards code. The food standards code prescribes compositional, chemical, microbiological and labelling standards for food manufactured and sold in Australia. Essentially, it regulates what can be put in food and how it must be labelled.

A new food agreement was signed by the Council of Australian Governments, COAG, on 3 November 2000. The new agreement addresses many of the recommendations of the 1998 national food regulation review, known as the Blair report. The 2000 agreement ensures the continued adoption of the food standards code, but also commits jurisdictions, including the ACT, to the adoption of the model food provisions, the national food safety standards which will replace our existing food hygiene regulations, and a new system for food regulation. Prior to the current Chief Minister signing the 2000 agreement, the former Chief Minister wrote to MLAs to seek comments on both the agreement and the model food provisions and to inform them of the government's intention to enter into the agreement.

The model food provisions are divided into two parts, core and non-core. The core provisions, which under the 2000 agreement must be adopted by a jurisdiction in the same terms, relate to: definitions; offences, including those against the food standards code and the food safety standards; defences; and emergency powers. The non-core provisions are optional and cover the administration of the act. They include inspection, seizure, food sampling, analysis, food business registration, infringement notices, and miscellaneous provisions.

Under the 2000 agreement, jurisdictions also agreed that they would not create their own unique food standards, except where they were of a temporary nature, and then only to protect public health and safety. In accordance with that, the bill does not include reference to any existing ACT provisions which are inconsistent with national food standards. This means that the ACT's current egg labelling requirements have not been incorporated into this bill.

Support has already been sought from senior state and territory health and agriculture department officials for an amendment to the food standards code to require the labelling of eggs consistent with current ACT requirements. Additionally, as an aside, I will say that when I was at the recent food ministers conference I spoke informally to ministers to see whether there would be a change in attitude by the ministers. I can tell members that there was no willingness at all on the part of ministers, as with their officials, to allow an exemption that would set a precedent. I will get to the reason for that shortly. Unfortunately, support was not forthcoming from either those officials or those ministers as they considered it to be an animal welfare issue that should not be dealt with in food law.

It should be noted, however, that the Agriculture and Resource Management Council of Australia and New Zealand, ARMCANZ, the ministerial council which is responsible for agricultural issues, recently endorsed a national standard for egg labelling. The standard is to be implemented on a voluntary basis until it is mandated under the new national egg production assurance program. Once mandated under this program, all signatories to the program will be required to label egg packaging according to the method of production of the egg, that is, cage, barn, aviary or free range.

I understand that both the standard and the program already have widespread industry support and that the majority of egg producers will be complying with the labelling standard within the near future. Again as an aside again, members will no doubt receive, as I have, many letters saying how terrible it is to remove the ACT egg labelling regime. It is, effectively, a temporary measure, and it will be extended to Australia, rather than

being restricted to the ACT. It is not a factor that ought to be taken into account in considering this bill.

I should also say that a number of interest groups have written to me, that I have responded to them, and that they have misrepresented my response to them. For example, the animal liberation organisation asked me for a meeting on this legislation this week. I said that I would not be available for a meeting this week. Mr Speaker, there is no reason at all to put out misinformation on egg labelling.

The bill I have presented today is based on the model food provisions and was developed following five years of public consultation, occurring mainly at a national level. Earlier this year, the non-core provisions also underwent an ACT-specific regulation impact assessment, involving consultation and a comprehensive cost-benefit analysis. Consultation took place with industry groups that represent ACT food businesses, and about 2,000 food businesses were also contacted to encourage their participation in the process.

To paraphrase the findings of the regulatory impact statement, the major effect of the non-core provisions will be to increase the rate of compliance with the core provisions as the majority of the non-core provisions complement the food standards code and enable them to be enforced. Also, the regulation impact statement recognises that adoption of many of the non-core provisions is necessary to give effect to the core provisions.

In summary, the proposed outcome should maintain, or possibly enhance, the already high standards in force in the ACT and have minimal disruptive effect on the operation of food businesses because the proposals do not involve major departures from the status quo and basically maintain the existing balance between public health requirements and requirements for business.

The authors of the regulation impact statement found during consultation that ACT businesses were of a general consensus that uniform food regulations were essential for customer confidence, professional opportunities and business investment. Those consulted were also generally supportive of the adoption of the food safety standards which are intended to replace the ACT's existing food hygiene regulations.

The purpose of the bill I have presented today is not only to honour the commitment that the ACT government made in November last year when it signed the 2000 agreement, but also to ensure the continued protection of public health and the provision of information enabling consumers to make informed choices. This bill provides a framework for ensuring that food, as one of the key potential means of transmitting illness, is correctly labelled, safe and suitable.

The Australia New Zealand Food Authority, ANZFA, finalised the development of the national food safety standards last year. The national standards deliver uniformity with respect to food hygiene and food premises construction, vitally important as a measure to reduce the rates of food-borne illness. This means that all food businesses, wherever they operate in Australia, only have to comply with one set of standards.

In July 2000, the Australia New Zealand Food Standards Council, comprising health ministers from all jurisdictions, approved the incorporation of the food safety standards into the food standards code. For the territory, this incorporation did not allow for its enforcement because the current Food Act only adopts references to food within the food standards code, not food hygiene, safety or construction practices. Whilst the 1991 agreement brought Australia uniform compositional food standards through the adoption of the food standards code, it failed to deliver uniform framework legislation or food hygiene standards. As a result of the 2000 agreement, the bill that I have presented today does both of those things.

The Food Bill 2001 repeals the Food Act 1992 and the Meat Act 1931. It adopts much of the model food provisions and rectifies deficiencies which have been identified through the many years of operation of the current legislation. These deficiencies include: the way national food standards are adopted; the wording of certain offence provisions which has presented barriers to successful prosecution; difficulties associated with seizing foods which present a public health risk; and problems with legally sampling and analysing foods which originate as a result of a complaint.

At one time, the national food safety standards contained reference to mandatory food safety programs. However, in 1999, health ministers agreed that more work was required to assess the impact of food safety programs on small business prior to their approval. The research is still ongoing and, as such, reference to the adoption and administration of food safety programs within the model food provisions has been removed from the bill I have introduced today.

The ACT Health Protection Service has already begun assisting food businesses with preparing for the food safety standards. In February of this year the service introduced two important initiatives: the publication of a bimonthly newsletter, ACT Food Facts, which updates business on the implementation of the 2000 agreement in the ACT and provides information on the safe handling of food, a publication that I understand all MLAs receive; and the formation of the ACT Food Regulatory Advisory Group, which consists of senior health protection service staff and representatives from the majority of the ACT's food industry organisations. The ACT Food Regulatory Advisory Group was formed to deal with issues arising from the implementation of the national food reforms and to act as a forum for the discussion of issues of mutual importance.

Over the past 18 months, officials from the department have been working with other jurisdictions on a series of national projects designed to assist businesses with the implementation of the various reforms. The projects include: the development of written and visual training materials for charity and community groups, organisations not normally considered to be food businesses; a package to assist school canteens to introduce food safety standards; a training package to be used across Australia to teach primary-aged schoolchildren about the importance of food hygiene and food safety practices; and the translation of written material into a number of other languages to assist businesses with staff from culturally and linguistically diverse backgrounds.

Following passage of the Food Bill 2001, the department intends to host a series of industry workshops designed to highlight specific issues within both the food safety standards and the new act. Environmental health officers who visit food businesses as part of their administration of the current Food Act also will be available to discuss

issues of concern with proprietors and their staff as part of their routine visits. A draft communications strategy prepared by the Health Protection Service was recently circulated to ACTFRAG members. The strategy seeks to further promote the national reforms in the ACT, not only to businesses, but also to the wider community. As I have already stated, food safety affects all of us, so it is important that the food safety message is spread to the entire community.

Turning to the main features of the Food Bill 2001, the objectives of this bill are: to ensure that food for sale is both safe and suitable for human consumption; to prevent misleading conduct in relation to the sale of food; and to provide for the application in the ACT of the food standards code. The act will apply widely, including to charitable and community bodies and one-off events; in other words, all businesses handling or selling food will be obliged to produce safe food. However, it is intended that an exemption in relation to fees for registration and other services will be provided to fundraising events for community or charitable purposes.

The bill defines primary food production and identifies reticulated water systems. However, in recognising that the primary food production sector already complies with a myriad of industry-based quality assurance systems, exemptions from certain sections of this bill are provided. For example, primary production activities will not need to be registered under this bill and the provisions relating to the improvement and prohibition notices will not apply. Reticulated water suppliers are also exempt from certain sections of the bill as they are already regulated under the Utilities Act 2000 and the Public Health Act 1997.

Even with these exemption, the bill still provides a broad obligation on all persons involved in the food supply system to produce safe food, including those within the primary food production sector and suppliers of reticulated water. The bill provides for other definitions, including the meaning of "food", "sell", "unsafe and unsuitable food" and other terms relevant to the enforcement of food requirements in the territory.

The bill establishes offences consistent with those found in the model food provisions. The penalties are significantly higher than those that currently apply, especially in cases where a person knowingly breaches a requirement of the act. This increase in penalties is a recognition by the government of the importance of food safety and the protection of the community against food-borne illness. The offences relate to the handling and sale of unsafe and unsuitable food, false description of food, misleading conduct in relation to the advertising or labelling of food, sale of certain equipment for use in the production of food, and non-compliance with the food standards code, including the food safety standards.

Defences are provided if a person has taken all reasonable precautions and exercised due diligence to prevent the commission of an offence. A defence is also provided for non-compliance with a provision of the food standards code if the food is to be exported and complies with the laws of the country to which it is to be exported.

Emergency powers are exercisable under the bill if there is a serious danger to public health. The powers are vested in the minister and provide for: the publication of warnings; prohibition of cultivation, harvesting, advertising or sale of food; recalls; and the destruction of food. The bill establishes a person's right to seek compensation if they

are adversely and unjustly affected by an emergency order. Authorised officers are appointed under the Public Health Act 1997 and are professionally recognised environmental health officers.

The bill establishes the power for authorised officers to enter premises operating as a food business or holding documents pertaining to that business. These powers are consistent with the model food provisions, the current Food Act and the Public Health Act 1997. The bill sets out the usual powers of such officers, including to inspect the premises, take samples and examine records. Again, consistent with current legislation, the bill enables an officer to seize things that may be used as evidence for an offence for the purpose of ameliorating a potential public health risk. The bill also establishes the rights of a person from whom the item was seized, including the right to compensation for wrongful seizure.

Whilst creating offences for providing false or misleading information to an authorised officer and hindering or obstructing an authorised officer, all consistent with current legislation, the bill also places obligations on the authorised officer. It requires the officer to cause as little inconvenience and detriment to the food business as possible while exercising his or her duties, and for the government to pay compensation if a person suffers loss or expense because of the inappropriate exercise of that power.

The bill details the process to be followed when taking and analysing food samples. It includes procedures for the payment of the sample and submission of the sample for analysis. It also prescribes the method of analysis to be followed. Consistent with current legislation, authorised officers can issue an improvement notice directing a food business to remedy unclean or insanitary conditions and requiring compliance with the food standards code. The authorised officer may also issue a prohibition order if an improvement order is not complied with or if there is a serious danger to public health. Unlike current legislation, there are provisions for reviewing such orders and for awarding compensation if it is found that there were insufficient grounds for issuing a prohibition order.

The bill requires a food business to be registered with the Department of Health, Housing and Community Care prior to its commencement, similar to the licensing provisions contained within the Food Act. Food businesses requiring registration include, but are not limited to, restaurants, takeaways, butchers, bakeries, service stations, supermarkets, video shops, newsagents, caterers, meals on wheel, market stalls and wholesalers. Certain prescribed businesses will be exempt from registration. In accordance with the national food standards, these businesses will be required to provide the department with a one-off notification of their operational details.

With regulations currently being prepared, it is intended that an exemption from registration will apply to businesses that operate no more than five times a year selling food that is not considered to be potential hazardous and to food vans that are registered in another jurisdiction. Notification, far from being onerous, is considered a proactive public health measure. The purpose of notification is to allow the department to forward important food safety information, including training material, to businesses and community organisation which would not normally be aware of the material.

The bill provides for the issuing of infringements notices by authorised officers for certain minor offences. Infringement notice offences will be prescribed in the regulations. Infringement notices serve as an alternative to prosecution, whereby they are issued and the business can decide whether to pay the fine. If they do not pay the fine within the specified time or dispute liability for an offence, the matter may be taken to court.

The bill describes procedural issues to be followed or observed when undertaking a prosecution for an offence under the act. Consistent with the current act, it includes provisions on bribery, presumptions, evidence of expert witnesses, and the ability of the court to award costs, order the forfeiture of items used to commit offences and correct advertising. The bill includes issues relating to protection from liability for individual officials who honestly and without negligence enforce the act. It also covers secrecy, decisions reviewable by the Administrative Appeals Tribunal, approval of codes of practice, determination of fees and regulation-making powers.

In summary, the bill I have introduced today is not a one-off measure. Rather, it is part of a comprehensive package of reforms that seek to unify Australia's approach to food production, from paddock to plate. The bill reflects many years of development and extensive consultation. In the case of the Meat Act 1931, it replaces outdated and unnecessary legislation with modern best practice legislation. In the case of the Food Act 1992, it corrects identified deficiencies and permits the adoption of the food safety standards.

The Food Bill 2001 will ensure the protection of public health while at the same time affording businesses with a framework that maintains their right to natural justice and has been assessed by the regulatory impact statement as being the minimum in terms of effective regulation. The 2000 agreement and this bill ensure national consistency across all three regulatory elements that have traditionally comprised Australian food law: an act that establishes principles of framework, administrative structures, offences and penalties; food standards which set down compositional, microbiological, chemical, labelling and quality criteria which food is required to meet; and food hygiene standards whose purpose is to ensure that the production, processing, storage and handling of food does not result in microbiological, chemical or physical contamination.

It is with great pleasure, Mr Speaker, that I commend this bill to members of the Legislative Assembly.

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

Crimes Amendment Bill 2001

Mr Osborne, by leave, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR OSBORNE (11.25): I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill recognises the growing use of stalking offences that now occur through advances in electronic forms of communication, such as email and the Internet. Research, both in Australia and overseas, shows that the Internet allows electronic stalking with virtual impunity. Our stalking laws were updated fairly recently. However, according to some sources, including the Australian Institute of Criminology, there is a further need for clarity. This bill attempts to provide that.

Mr Speaker, the terms "cyberstalking" and "child predator" are now commonly used to describe two activities where the Internet has become the means of committing various stalking offences. Although this bill does not use these terms, I shall still explain them briefly. Cyberstalking occurs when a person stalks another person using electronic forms of communication. In most regards, it is the same as more traditional forms of stalking in that the intent is to persistently cause fear or harm to a victim. However, given the latest technology, distance is no longer a factor in this type of stalking. In order to provide for consistent rulings, the law should reflect that fact.

Legislating against cyberstalking is difficult as it uses a completely new medium of communication. As the Internet crosses both state and international boundaries, it can be unclear who has jurisdiction in certain circumstances. Whilst this problem also applies to most other types of computer-related crimes, I understand that legislation currently before the federal parliament will go some way to assisting this country to resolve some of those difficulties.

The second term, child predator, refers to those who intentionally focus their stalking activities on children. At one end of the spectrum are paedophiles who trawl through the Internet chat rooms seeking children to prey on and at the other are those intent on scaring children with email messages that contain lewd or violent material. Extensive scientific research in the United States shows that one child in five who use the Internet in that nation is now hunted by a child predator each year. As an aside, Mr Speaker, I heard on the radio this morning of the arrest in the United States in the last day or two of some people who headed a major child pornography ring and who used the Internet quite extensively. From what I heard this morning, they had a turnover of well over $3 million a year for this type of material.

Instead of hanging around schools and playgrounds, as they used to, many paedophiles now contact their intended victims through the relative safety of anonymous chat rooms. They seek out lonely and troubled kids, befriend them and then work clever schemes to trick them into a meeting. There have been horrific instances of such activity. Unfortunately, as is occasionally reported in the media, we are not immune to these types of people in Australia, nor even in Canberra.

A survey I conducted last month at MacKillop College, with the help of the school staff there, convinced me that we have a significant problem here, too. Of the 238 students surveyed 42, or 27 per cent, said that they had been contacted by someone they considered to be a child predator. A third of those contacted also said that they had not told anyone about the encounter. In response to these results, I have looked for ways to warn and educate parents and their children about the safe use of the Internet. In recent days, I have distributed a leaflet to homes that, hopefully, does that. This legislation is a further response to ensure that our law is as useful as it can be to protect families and successfully prosecute offenders.

This bill has two main points. The first is to specifically include all current forms of electronic communication in the stalking law. The second is to prevent the sending of pornographic material or an invitation to participate in or view acts of a sexual nature to a young person. In the bill, the age of a young person is set at 15 years or less.

Mr Speaker, I urge members to support this legislation. Computer-related crime is one area of the law that needs urgent attention. I understand that state and territory chief police officers and police ministers will soon be discussing their response to the challenge of catching child predators. Whilst a comprehensive national approach is needed both legislatively and from a police perspective, major change is going to come slowly. In the meantime, I believe that this bill will plug some of the gaps. I commend it to other members.

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

Justice and Community Safety—Standing Committee
Scrutiny Report No 11 of 2001

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

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 11 of 2001, dated 9 August 2001.

I ask for leave to make a statement.

Leave granted.

MR OSBORNE: Scrutiny Report No 11 of 2001 contains the committee's comments on two government responses; in particular, in relation to the Crimes Legislation Amendment Bill. I commend the report to the Assembly.

Report No 16

MR OSBORNE (11.31): Mr Speaker, I present the following report:

> Justice and Community Safety—Standing Committee—Report No 16—The ACT Prison Project: Operational Models, Strategic Planning and Community Involvement, dated 6 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Some of us on the committee had hoped that we would be able to put in the final report on the ACT prison project, but one member was not so keen on that. I am sure he will have a bit to say later.

It has been a long process for all of us on the committee. As I have said many times here, I recall visiting a prison a Junee with Mr Hird and Ms Follett about five or six years ago. It is pleasing that as a committee we were able to come down with a number of final recommendations.

We have obviously spent a lot of time looking at the issue of public versus private. There have been times in the last 18 months when we have been close. With the tabling of the Rengain report, the committee is now of the view that we are in a position to make a recommendation on that. I am sure that other members of the committee will speak in more detail on this, but the committee has recommended that the government adopt a hybrid operating model.

I will briefly go through the recommendations. The hybrid model would have private sector managers responsible for discrete parts of the prison's operation. The services would be provided through a competitive tendering model, with the public sector adequately resourced so it can tender for different contracts. The committee also recommends that the government develop the details of this model, drawing on lessons from other jurisdictions, and provide the detailed concept to a relevant Assembly committee for comment.

There are other recommendations that I will speak briefly to. The committee recommends that the next Assembly establish an inquiry into the prison project to ensure that the Assembly continues its watching brief over the project as we have attempted to do in the last 3½ years.

Recommendations 2, 3, 4 and 5 relate to the community panel. The committee would like to see that continue in some role, but perhaps in a more refined role. I think the number on the last panel was too great, but we do see a need for that panel.

The next two recommendations relate to sentencing options and recommend a number of things for the government to look at, including detox and rehab beds. Recommendation 10 recommends that the government commission an independent evaluation of the financial costings contained in the Rengain report. The committee had hoped to be able to do this itself but ran out of time, so we would encourage the government to look very seriously at this recommendation.

I have spoken to recommendations 11 and 12, which recommend the hybrid model. Recommendation 13 relates to the future role for current staff. Recommendation 14 looks at the role women would play in any future prison. Recommendation 15 recommends that the government initiate consultation with prisoners, not so they can have a good way of escaping, get a view of the sewerage plans or anything like that.

I think it is important to realise that we are at a very crucial phase with the prison. I have expressed my personal views on the potential cost, but I will not muddy the waters on that issue, Mr Speaker.

We have no prison in the ACT. We have spent a lot of time looking at different models around the country. We have seen the good; we have seen the bad. I hope that whoever has the responsibility for the prison in the next government, whether that be Mr Hargreaves or Mr Hird—it will not be Mr Moore—looks at the information the

committee has supplied. This matter has consumed the committee for a number of years. It is a major issue we have looked at. We have made some significant recommendations which I hope will be taken up by any future government.

I would like to thank other members on the committee for this long walk with the prison. Mr Hargreaves, in particular, has taken quite an interest in the prison, and I am sure he will have something to say about it. I would also like to thank our secretary, Fiona, for the great job she did in putting various reports together and harassing government, who were less than prompt in providing information. As I receive a glare from Mr Moore, I must say that under the new minister that has not been the case. It has been a worthwhile look at the prison. Should we go ahead with a prison, I hope that we get a good one. I also hope that all the recommendations are looked at seriously by any future government.

MR HARGREAVES (11.37): I echo Mr Osborne's congratulation of our committee secretary, who has been extremely helpful in interpreting the differing views on the committee and putting them together in a form we could submit to this Assembly after Mr Kaine had edited it properly. Mr Kaine's attention to the detail of the English was most helpful. I express my appreciation also to Mr Hird, because he shifted a lot of ground in the course of the inquiry, which I know was difficult for him.

This is the final report for this Assembly, but if whichever government is formed next year picks up the recommendations of this committee they will continue the undertaking Mr Humphries gave that the Assembly will have a watchdog role over the prison through its construction phase and on into its operation. I would like to add my encouragement on that.

The committee recommends at recommendation 2 that the government provide a detailed response to the prison community panel's report *Getting it Right*. I would like to recognise in the gallery Mr Don Allan, who had a lot to do with keeping the panel report alive and giving us a good idea of just how much consistency there was in the approach in the *Getting it Right* report. It was portrayed that it was a less than significant majority, and we had that corrected.

I would like to put on the record my appreciation of the community panel for their involvement in the process. It has been most useful.

What has been interesting has been the convergence of views. The committee, for example, was not happy with private ownership. Neither was the panel. The government realised that this was a community view and embraced the public ownership bit. I think a lot of the credit for that can go to the community panel.

It is a bit disappointing that the government has not tabled in this Assembly a detailed response to the *Getting it Right* report. We have seen some of the government's reactions to it, but it would have been nice to have had a record of the government's attitude to that report.

As Mr Osborne said, we would like to see the panel monitoring role continue when the prison is up and running. Certainly it would need to be a revised committee model, because it is a little bit unwieldy at the moment. It was important that every sector of the

community be given an opportunity for representation, but when we are talking about an ongoing role something considerably smaller, more effective and with a bit more specifically related expertise may be appropriate.

It is also important that the panel be involved in the design and tendering stage. One of the successes of the Lanyon youth centre was the Lanyon skateboard park, and I know a couple of other initiatives by this government have involved the community at the contemplative stage. We have had that involvement. We need to make sure that that involvement continues in the design stage. That will generate community ownership of that facility, I would hope, as it has with the other facilities I have just mentioned. Had the Symonston community had ownership of that thing in their area, they might not have stridently opposed it.

Because the committee ran out of time, it suggested that the government commission an independent evaluation of the financial costings contained in the Rengain report and that the evaluation closely examined the validity of the assumptions. The Rengain report itself and the people who briefed our committee said that the numbers were scary. The $110 million frightened the living daylights out of our committee chair. As soon as he saw that, he thought, "Whoa, Jackson. I am not going to go down that track." The report did indicate that these figures were indicative. They were based on comparisons with other institutions that were being built or had recently been built in the country.

The report said that once tenders were called they expected that number to be lower. However, I suggest that if you say to somebody, "The price for my house is between $130,000 and $135,000," you can pretty near bet what the range of bids is going to be. I have some reservations about that.

If we have it independently evaluated, we may get a better idea, particularly given the underlying assumptions—for example, the incarceration growth rate. I am not so convinced that the incarceration growth rate will explode as it has in other jurisdictions or at the rate suggested in Mr Walker's report. I do not think that in four years we will get to the numbers that the report suggests.

I know there will be a very large increase because of the hard stance on crime that has been taken lately, because of the propensity of magistrates and the judiciary to fill up an empty jail and because of many other things. But I do not think it is going to explode. I would like to have those assumptions tested, because the result will have a bearing on when we reach the break-even point, when we reach the point when it becomes cheaper for us to have a prison in the ACT.

According to the Rengain report, about four years down the track we might as well have it here because will be paying the same to New South Wales as it would cost us to run it here. The difference will be that we will have the prison here. I suggest that it is more likely to be five or six years, but I would like that looked at.

We have come a very long way. I can recall the early days of the committee's considerations, when some members of the committee were totally convinced that the privately owned, privately built, privately financed, privately operated model was probably the best one because of the reputation of the private sector. Then we started to hear stories about the Port Phillip prison and metropolitan women's prisons and then in

recent times about detention centres for refugees and all that sort of thing. They started to cast some doubt. Then the Victorian coroner's report and the Victorian Auditor-General's report said that none of the predicted savings had been realised, and all of a sudden a cloud of doubt pervaded the committee.

We asked for a cost-benefit analysis. Apart from the word "prison", the three words that our committee chair did not want to hear as often as he did were "cost-benefit analysis". If it was not me getting upset because we did not have it, it was the government saying why they could not give it to us. I am pleased to see that at least the Rengain report has something like that in it.

Off we went around the countryside on what one member of the committee somewhat inappropriately described as a junket, I thought at the time. Nonetheless, the information we brought back was invaluable. People's ground started to shift, which was a terrific thing from where I was sitting.

We need to consider what we mean by the hybrid model. I guess it is pretty clear what the public model is. It means that everybody employed in the prison is a public servant. Under the private model, everybody employed in a private prison is not a public servant.

The hybrid model affords us an opportunity to get the best mix. I reckon we have a really good opportunity to get the best mix while still adhering to the philosophy that the administration and allocation of justice are a community responsibility. We are not locked into saying that we have to provide it even though we do not have the expertise. We can let contracts for people to run behaviour modification programs.

I refer the Assembly to recommendation 13, which says that if the government proceeds with a contract for a private operator to provide custodial staff the contract should have a transition-of-business clause. That will protect the jobs of the workers currently involved in the corrections system.

I refer members to page 22 of the report. It says:

> The one area which may be difficult to outsource to the private sector is that of "custodial services". For a best-practice prison to function well, the custodial officers would need to be well-trained and able to function as case managers.

That was something we found really useful in both the private sector prison at Mount Gambier and the Lotus Glen public sector prison in Queensland. It worked in both of those facilities. I thank Mr Hird for suggesting that we should go and see Lotus Glen, because that was an eye-opener for us. The report says:

> In the committee's view it would be preferable if this key function—

that is, the custodial services—

> remained with the public sector, at least in the initial period of the prison.

One member of the committee felt that it was not only preferable but essential that the custodial services remain in the public sector, and I fess up to being that member. If the government picks up the spirit of that recommendation, it has to do something rather

smartly, like now, about getting the expertise and getting the infrastructure together to recruit those people.

Recommendation 14 addresses one of the more difficult problems—and Mr Osborne quite rightly pointed it out—our approach to women. We have a critical mass problem. We do not have enough women to do programs. Women's issues have a very high profile. People involved in women's issues are very expert in what they say and the advice they give. We need to make sure we tap into that expertise. Because there are not too many women in the prisons compared with males, they will be overlooked if we do not. We will provide a poor service for their rehabilitation and their restoration. If you look at the demography of prisoners in jails, you will find that the ones who suffer the most from their freedom being removed are women, because they have been separated from their children and their family. They really go through hell. We can address those things if we talk to them. We need to talk to them honestly and make sure that they are not marginalised.

It is a good question. Why do we need to talk to prisoners about it? As Mr Osborne said, we do not want to show them where the sewerage works are so they can go out like the guys in Villawood did. He made a very good point.

Mr Kaine: They have to know where the soft rocks are so that they can get out.

MR HARGREAVES: Yes, that is right. We do not want to say to them, "We like the idea of going into this motel ourselves." I am sure Mr Osborne has one eye on the comfort zone in the prison himself. He wants to make sure it is a lovely place if he has to go there.

I remind members of the disasters that occurred in the Port Phillip prison. Thirteen people hanged themselves in 18 months. A lot of that could have been avoided without changing the programs and all that sort of thing if only they had spoken to the prisoners themselves. They would have said why they might be likely to try to top themselves. It costs us nothing to ask people a question, and it costs us nothing to listen to their answer.

I want to put on record my appreciation of the government for shifting its ground and moving away from private ownership and private financing. I think their embracing of public ownership and public financing is sensible and a good way forward. But I also have to express my regret that it took them so long to come up with a cost-benefit analysis when it really was not necessary to wait so long.

This report encourages the government to embrace best practice. We can lead the country and possibly the South Pacific in the sort of prison we provide here, because it will be on a very small footprint for a limited population and there will be only one. We can embrace a restorative justice model. Prima facie, the Rehabilitation Offenders (Interim) Bill looks like it is heading in that direction. We will see when we read the detail.

There are a couple of areas where I think we can do a little bit better. What support services do we give families of people who are incarcerated? These people are not in every case criminals themselves. They are not unproven or uncharged criminals themselves. Some of them are innocent victims, almost to the extent that the real victim

is. We do not look after the kids of those families anywhere near well enough. I would like to see the government look at that process. *(Extension of time granted.)*

I am pleased to see the Rehabilitation of Offenders (Interim) Bill and the committee's approach to the prison. I acknowledge Mr Moore's commitment to the holistic approach to corrections. We are talking about the continuum of the restorative justice model, but we have to remember that when people come out of jail that is not the end of it. We have parole, transitional release and things like that, then the prisoner is released into the community.

But that is not the end of it either. The restorative justice model is not just about rehabilitation; it is about restoration of the community as well as the offender. We have to create an environment in which the community wants to have them back, are happy to have them back and encourage them to come back, and in which people go back with the skills to reintegrate and everybody is happy at the end of the day.

I issue a challenge to those opposite in case they inherit the treasury bench yet again next year. They must look at the problems of the re-establishment of families when an incarcerated person is released. We do not provide any support services to women who receive a male family member into the family after a period of 10 years and have to establish emotional relationships all over again. I am not talking about the person coming out of jail; I am talking about the women.

We do not have any support services for the young boy who is, for example, 10 when his father goes into jail. When the father comes out six years later, the young boy, who is then 16, has become the significant male in the family. The father comes back and has to re-establish norms and paradigms. The offspring of a service family would know the dislocation that a service family can suffer. It is rather horrendous. I can imagine that it would be worse for the family of people coming back from jail.

The challenge to whichever government is in power next year is to say, "Are we doing enough for these people?" If we want to attack recidivism, we must make sure that we do not put people back into a dysfunctional environment. We have to look at the environment into which they go. That is one of the best ways to go about it. So the challenge is on the table.

I think the committee moved a very long way from where we started. We have provided the government with a blueprint for an excellent restorative justice model. Again, I thank all members of the committee for the distance they travelled and for the amount of work they put in. In particular, I express my thanks to Mr Kaine, who travelled probably the most with me. I was able to test my theories and philosophies with him and see whether they made as much sense as I thought they did. I thank Mr Hird for accepting the same challenge. Again, a very big thanks to Fiona Clapin. She did a great job. And I want to thank Mr Osborne for turning up.

MR KAINE (11.56): I will be quite brief. I think the government should take this and previous reports of the committee very seriously, because the committee put an enormous amount of its time and energies into keeping an eye on what was happening with the prison project. It is not something the committee took lightly. We travelled extensively. We did that to make sure that we understood what best practice was in

building and managing prisons. We did that to help us develop our approach to what the philosophy of running a prison ought to be. We did that to determine, and make recommendations about, what the ownership arrangements for this facility should be. They are all important elements of the early planning for a prison. I think we have come to some pretty good conclusions. I note that the government by and large has picked up on them.

Before we let this project go on its way, and before this particular Assembly ceases to be, there are a couple of warnings I would like to sound. This project is bigger than the Bruce Stadium project. It has the potential to be a financial success or a major financial failure. That means that the government of the day has a responsibility to ensure that the failings that were revealed in the Bruce Stadium exercise are not repeated here.

The first need is to have a proper financial and economic analysis done before the project starts. The government's record so far has not been very good. The committee tried for two years to get the government to tell it what the cost of this project was going to be. We were working on a figure of between $30 million and $35 million. It is only in recent weeks that a more realistic figure of $110 million has been put on it.

As our report records, the Rengain report, on which that is based, makes it clear that the costings it has relied on are only indicative costings. So we are not sure, even at this stage, about how accurate those costings are going to be. Bruce Stadium demonstrated the dangers of launching into a program without doing a proper economic and financial analysis first. I would like to impress on the government the necessity for getting the costings right before they even begin. There is always an element of risk in that, but it is something the government has to confront.

The next thing, once we get the money right, is to develop a proper cost control system. Without a proper cost control system, as we saw with the Bruce Stadium, costs can simply go through the roof. A good cost control system depends on good configuration management. That is, you design up front and you stick to that design. You do not change it in the course of the construction, because every time you do you add costs.

The third important thing is to have a proper management plan and a firm management structure in place. Whoever constitutes that management structure needs to know what they are doing. They need to be competent professional people in the field of construction and in the field of prison management. I do not see much evidence of that being put into place yet.

There needs to be a system set in place to ensure that the decision-making processes are clear and that the decisions are properly recorded somewhere, so that after the event, if the Auditor-General or somebody else wants to find out what actually happened, the records are there to support the decision-making process and the decisions.

There needs to be continuing oversight by the community and by this Assembly. Whatever arrangements are set in place, there needs to be continuing community and Assembly oversight, because of two things, one being the complexity and the size of the project and the other being the fact that we are dealing with human beings. We have to make sure that we get the right outcomes.

My final concern is that there does not appear to be any indication at the moment as to what the government believes is the maximum cost they should incur for this facility. It has jumped from approximately $35 million to $110 million. In other words, it has increased by 200 per cent, and we have not even dug the first hole or entered into the first contract.

I imagine that this project is going to continue to escalate in cost, and we will see an ultimate cost far in excess of $110 million, in my view. I believe the government ought to have some idea in its mind—in fact, a firm idea in its mind—of what it believes is the total cost that the community should incur to create a facility like a prison. They should not leave it open ended and end up paying $160 million, $180 million or $200 million, when an assessment at this stage could well show that that would be beyond the resources of this community to fund. I have heard no indication from the government of what they believe a feasible maximum cost of such a facility is.

Over many months we dealt with many facets of this project. I hope that we have been able to be of some use to the government and to the community in coming to conclusions about the nature of this prison, how it should be run, what the philosophy of operation ought to be, what facilities it ought to contain and the like. I can only commend the report to the government and make the point again that it is not a project that we can afford to take our eyes off. This Assembly has to continue to monitor it on behalf of the community to make sure that we get what we want at the end of the day and that it comes at a price we can afford.

MR HIRD (12.03): Mr Speaker, with other members of the committee, I strongly urge members to read this report. As Mr Kaine has just indicated, this project is one of the major financial projects which will be undertaken by government in the territory, and it needs close scrutiny.

A matter of concern to all of us in this place is the deterioration of the Remand Centre and the urgent need for a replacement for the Remand Centre. I ask the next government, of whichever persuasion, to urgently give attention to the building of a new Remand Centre or moving the Remand Centre into a more suitable accommodation.

I would like to thank my colleagues for the report and for the way they went about the task this place gave them. This is the second parliament in which Mr Osborne and I have been involved with this matter. This has gone on for some years, and may well go on for some more years as we work out the detail of the project.

I intend to touch on only three recommendations of our report. Before I do, I would like to thank the head of corrective services, James Ryan, and his staff for their assistance. They were very forthright in assisting the committee in the task it undertook.

I would also like to thank the community panel, chaired by prominent Canberran Mr Jim Leedman. As was indicated by Mr Hargreaves, Mr Bob Allan was also a member of that panel. He had a view which he expressed before the committee at the appropriate time.

As was said by the chairman and the deputy chairman, the committee started out with probably four different opinions on how an institution such as this should function. We analysed criminal institutions right round Australia. I was impressed with the operation

in Mount Gambier, South Australia, run by Group Four from the private sector but with South Australian corrective service officers overseeing the operation. It is not a full hybrid operational system such as that recommended by our report, but it is very similar. I was particularly impressed with that model.

The committee recognised that it would be very difficult at this stage to implement a fully publicly operated prison in a jurisdiction such as the ACT, because we have had very little experience in running a prison system. Hence recommendation No 11. You need innovation and best practice, and perhaps the best of two worlds—the private sector and the public sector. This penal institution in the ACT will be a sole provider. So to get some form of competition you need to be able to contract out various things such as education, management of food preparation facilities, repairs and possibly other areas touched on in this report.

Page 22 of the report says that four or five sector managers would be responsible for discrete areas. There could be a custodial operations manager, a rehabilitation programs manager, a community relations manager and a justice manager. A service manager could look after catering and cleaning.

This does not remove the opportunity for the public sector and private sector to work together. This model has worked in other jurisdictions. A high degree of cooperation between the two groups would assist the good running of such a facility. We pay $11 million to New South Wales at the moment. That $11 million goes into a black hole and does not create any employment within the territory. The system the report recommends would create employment within the territory, and some of the services would come from merchants within the territory. Benefits would thus flow to the private sector.

Recommendation 13 touches on the staffing of the Belconnen Remand Centre. When we talk of Belconnen Remand Centre staffing arrangements, we need to take a number of matters into consideration. One is that these officers are all professionals who have certificates of accreditation. To work in the corrective services industry today, not only in New South Wales but throughout Australia, you need certificates of accreditation to show that you understand the task given to you. To my knowledge, all officers at the Belconnen Remand Centre, a facility that might be termed a mini-prison, have some form of accreditation. There is another employment consideration. The courts are staffed by officers from corrective services, who transport prisoners from A to B as well as working from time to time at the Remand Centre at Belconnen.

This is an excellent report. I commend it to the house, and I look forward to the response by the minister, Mr Moore.

In closing, I thank our secretary, my colleagues and all those who assisted the committee throughout Australia in its deliberations on this very difficult and very interesting topic.

MR MOORE (Minister for Health, Housing and Community Services) (12.11): There will be no further opportunity to respond to this committee report, with only six more sitting days. I thank the committee not just for this report but for their efforts on this issue through this Assembly and before. One of the very positive aspects of this project is that committee members tried to work as cooperatively as possible. Differences were

largely sorted out. Remaining differences were only peripheral. The thrust of the report is very positive. Prison project officers will look very carefully at both the panel report and the committee report.

This report is example of the very best of this Assembly over the last year. From its inception the committee worked to get an outcome, focusing on the outcome rather than the political issues. With that situation, a minister is much more responsive to a committee report. I know that the department is also keen to respond in a positive way.

I would like to comment on a couple of the recommendations, understanding that these will be considered carefully by the government and by the project committee in preparation for a response in the next Assembly. Detoxification and rehabilitation programs are very important. I remind members that it is not the number of beds that is critical. It is number of people who are waiting and the time they have to wait.

I had a very interesting discussion with another jurisdiction the other day on this issue. The minister in that jurisdiction was flabbergasted when I pointed out that the upper estimate of 1,500 dependent users in the territory, combined with over 1,000 treatment places, represented a ratio of 2:3. I believe that would be outstanding by Australian standards. It does not necessarily mean it is enough. We have to keep an eye on that. We can check that people are not waiting to get into the methadone program, which has just been expanded so that buprenorphine and, before too long, naltrexone can be used.

Recommendation 9 recommends a stronger commitment to non-custodial sentencing options. The government is committed to that. Just today I have introduced legislation.

The government will look very carefully at the hybrid operating model and assess exactly what the committee is saying in light of other information.

I would like to support something Mr Hird pointed out. In a project like this, it is possible to get caught up in a huge amount of administration. We have to be financially responsible and careful—that is the clear message from the committee—and at the same time make sure the prison is built. It has been nearly six years in the development. We cannot continue delays. Members have visited Belconnen Remand Centre. The situation there is desperate. If we get more law and order legislation through the Assembly—whether you think it is a good thing or bad thing does not matter—it will put more pressure on the Remand Centre and on our courts.

We have to find the appropriate balance. Whoever is minister for corrections following the October election will need to be on the ball driving this project. They will have to decide whether or not a delay is outweighed by the need for care in financial management. Both are important, and getting the balance right is the critical issue.

The Chief Minister has already acknowledged that the balance was not correct with Bruce Stadium. I raise that matter because I want to respond to Mr Kaine. The prison is a much bigger project than Bruce Stadium, but it is worth remembering that there was a significant attempt to make Bruce Stadium a public/private project. The fact that the prison is a public project removes many of the problems that were associated with Bruce Stadium.

The most important thing is that we get a good prison system and that we get it as soon as possible. Look back at Bruce Stadium. Yes, there were problems, but we got a bloody good stadium and we got it at a reasonable price. That is the final outcome.

Mr Berry: You hopeless apologist.

MR MOORE: I hear Mr Berry saying, "You hopeless apologist." I have just conceded, as the Chief Minister has, that things went wrong with Bruce Stadium. You also ought to recognise that some things went right.

Mr Berry: Not much at Bruce Stadium, I have to say.

MR MOORE: Mr Berry, you have been to the stadium. The stadium is a bloody good stadium. Everybody I talk to says that it is a bloody good stadium. That is the reality. It is an absolutely terrific stadium.

The point I am making here is that we need to push ahead. It would be very easy to take the do-nothing option and to let the project wallow. It does need driving. Mr Corbell, if you are the corrections minister next year—I do not necessarily wish that on you—you will realise that it does need driving.

Mr Corbell: It will not be like Bruce Stadium, I can assure you.

MR MOORE: I agree. I conclude by thanking members of the committee, not just for this report but for the tremendous effort they put into making sure they understood the issues, reading the extraordinary amount of material, and seeking to make sure we have the best prison and a corrections system based on the sorts of things I said in my speech when introducing the bill this morning.

Question resolved in the affirmative.

Planning and Urban Services—Standing Committee
Report No 77

MR HIRD (12.20): I present the following report:

> Planning and Urban Services—Standing Committee—Report No 77—Draft variation to the Territory Plan (No 138): Gungahlin Drive Extension, dated 7 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report to be noted.

Mr Speaker, the Standing Committee on Planning and Urban Services recommends that draft variation to the Territory Plan No 138, relating to the proposed Gungahlin Drive extension, should be endorsed. We do not make this recommendation unanimously, unfortunately. However, Mr Rugendyke and I believe that the people of Gungahlin have suffered long enough and that it is time to get on with the job and get the work started.

The jury has sat, the evidence is in, it has been heard, and the verdict has been made. This committee recommends that the construction of Gungahlin Drive extension should proceed, and the committee's recommendations have been endorsed by the government and by members of the community.

Draft variation 138 formalises the process in relation to the GDE section between Ginninderra Drive and Belconnen Way. The committee has moved speedily to bring down its report on this draft variation. In doing so, we are conscious that the issues have already been exhaustively canvassed.

Our report No 67 on Gungahlin Drive, which was two years in the making, was presented to this parliament in March this year and was the end result of many years of study, consultations and planning. The report was over 60,000 words long and carefully and consciously examined all of the terms of reference. The conclusions reached by the committee at the end of the inquiry into the GDE are directly relevant to today's proceedings.

If I may paraphrase part of the conclusions in report No 67, the committee appreciates the need to make a decision in the near future. There have been many inquiries and investigations over the years. In this time, Gungahlin's population has grown to over 20,000. This committee's predecessor commenced an examination of the proposals for the Gungahlin Drive extension in 1997, and our inquiry was an extensive and exhaustive one. Three years is long enough for parliamentary investigations. There should be no further inquiries into whether to provide the Gungahlin Drive extension or into the Gungahlin Drive extension route alignment. It is time to get on with the job of building essential transport infrastructure to benefit the families of Gungahlin, one of the fastest growing areas in Australia. On this basis, the committee considers it essential that the current Legislative Assembly make a final decision on the Gungahlin Drive extension.

Mr Speaker, nothing has changed. There is absolutely no need to continue this argument in this place. The right place now is with the planners, with the engineers and with the construction companies. The time for talk has gone. Members need to do their duty and accept their responsibilities. Any talk of delaying a decision is running away from our collective obligation to the community—not only the community of Gungahlin but the wider community within the ACT.

When Gungahlin was established, there was no road infrastructure, which sadly is the fault of those opposite, if anyone is to blame. Basic road infrastructure should have been put into place before the development of Gungahlin. It was in other areas such as Belconnen and Tuggeranong.

If we do not make a decision today, the whole issue will drag on for at least another 12 months. A decision needs to be made. That would be another 12 months for the long-suffering residents of Gungahlin. We hear people talk about establishing an employment base in Gungahlin. Workers may well live in Gungahlin, but they would have to come from other parts of the territory too. So one flies in the face of the other. It is inappropriate and a cop-out, in my opinion, to walk away from our obligations to the people of Gungahlin.

The route has been chosen and the draft variation formalises it. The draft variation is for a route different to that put forward by the Maunsell report which was initially favoured by the government. The route now utilises some of the current car park of Bruce Stadium in order to minimise the effect on the local terrain. There is no spur. If you read the report, you will see that that was a compromise by the government. The rapid transit corridor will no longer go through the centre of O'Connor Ridge to Belconnen Way. That is another compromise. As the variation no longer incorporates the spur, it is absolutely inaccurate to claim that the GDE will cut through the ridge. It will not. Be honest about it. Draft variation 138 represents a significant compromise by the government in an effort to meet the concerns expressed during the committee's inquiry.

Mr Speaker, there is no need to delay this matter any further. The majority of the committee has decided to endorse draft variation 138. To that end, I gave a commitment to the residents of Gungahlin that I would do everything to make certain that a decision was made in this parliament during this term. So let us get on with the job.

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

Report No 78

MR HIRD (12.28): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 78—The Draft Village of Hall Master Plan, dated 7 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, this is a unanimous report. It expresses concern about the length of time being taken to prepare a master plan for the village of Hall. We sympathise with the wishes of the people of Hall for the matter to be finalised within the life of the current parliament. We have taken this view in light of the fact that the development applications for the village are being processed, while at the same time the master plan is not proceeding at an acceptable rate.

In 2000 this committee examined proposals to establish a rural/residential type of land use. In presenting our report on rural residential we recommended that the Hall master plan be finalised before a decision is made about the nature of residential development of any type in Kinlyside.

We also recommended that the master plan incorporate a more substantial buffer zone between the village and further residential development, and that the Territory Plan be amended to formally establish and protect the buffer zone between Gungahlin and the village itself.

We heard evidence that in March 1998 PALM indicated to the Hall and District Progress Association that the master plan might be completed within six months. It is now 3½ years later and the process is still not completed. The committee accepts that it is

vital to get the master plan right. We do not walk away from that. But we have a heard of the disappointment of the people of the village of Hall that planning issues within the village and for Kinlyside are continuing to progress while at the same time the master plan appears to be stalled.

Mr Speaker, the committee believes that the village of Hall master plan should be completed as a matter of urgency and that it should incorporate the following elements:

- the buffer zone between the village of Hall and the future development in Kinlyside should be at least 500 metres;
- there should be no direct vehicle road link between the village and Kinlyside;
- detailed and comprehensive attention should be given to the issue of traffic, parking and safety in Victoria Street in the village of Hall;
- the proposed subdivision of the north-western side of Hall should not take place; and
- to the maximum extent possible consideration of further development application should take close heed of our recommendations.

In closing, I would like to thank everyone who gave evidence to the committee on this issue. I would like to specially mention of the work of the Hall and District Progress Association for the tireless efforts its members have made to ensure that the village retains its special place in the ACT community. I would also like to thank officers of PALM who greatly assisted us, my colleagues Mr Rugendyke and Mr Corbell, also the secretary, Mr Rod Power. I commend the report to the house.

Question resolved in the affirmative.

Sitting suspended from 12.33 to 2.30 pm.

Questions without notice

ACTTAB

MR STANHOPE: My question is to the Chief Minister. In response to question on notice No 373, the Chief Minister said:

> I am advised that if Fern Hill Park becomes the chosen site, then it is proposed John Hindmarsh (ACT) will procure a crown lease over the site on behalf of ACTTAB.

Will the Chief Minister advise the Assembly why ACTTAB is contemplating paying approximately $2.4 million for a building at Fern Hill Park while John Hindmarsh (ACT) will apparently retain ownership of the lease over the site?

MR HUMPHRIES: Mr Speaker, there is a proposal, as members are probably aware, for ACTTAB to relocate to a different place in the ACT. There are a number of inadequacies in their present headquarters in Dickson and ACTTAB therefore for some time has been considering moving to other premises. The decision that ACTTAB has made has been to explore options for moving and they have indicated that they would prefer at present—this is not yet a settled decision, I emphasise—to locate to a new site at Fern Hill.

The government has asked ACTTAB to investigate an alternative site at Gungahlin. The government's long-term commitment to provide for the needs of the Gungahlin community has been matched by a commitment to consider the movement of major government offices into Gungahlin if that is convenient and appropriate.

The potential problem with the relocation of ACTTAB to Gungahlin is a technical one to do with the lack, apparently, of telecommunications capacity and the lack of back-up lines in the event, for example, that a telephone line carrying ACTTAB customer calls was to be cut accidentally. The need for those alternatives, those back-ups, is the potential issue which may prevent ACTTAB from moving to Gungahlin. I emphasise that this decision is yet to be made, and it will be made only in light of the full evidence about the technical appropriateness of the move.

I understand that there is an arrangement being negotiated with John Hindmarsh Pty Ltd which involves consideration of the sale of the site at Dickson and an arrangement entered into for either the purchase or the leasing of a site at Fern Hill, a site which I think John Hindmarsh Pty Ltd owns or has some kind of interest in. I do not have at hand the details of that. I am happy to obtain them for Mr Stanhope. I indicate that that matter has been extensively canvassed by the ACTTAB board and it will need to be approved by the government before any decision is made to relocate to either a site in Gungahlin or one at Fern Hill.

MR STANHOPE: If, as the Chief Minister has just indicated, the only decision that has been made is one to explore options and there has not been a decision at all by the ACTTAB board in relation to this, can he explain why lawyers for ACTTAB and lawyers for John Hindmarsh (ACT) were finalising a heads of agreement document as early as April 2001 for the Fern Hill Park site? If that work has been lately terminated, how much has it cost ACTTAB to date?

MR HUMPHRIES: With respect, Mr Stanhope, you did not hear my answer to your question. I said they were exploring options for moving. I said they had reached an agreement with John Hindmarsh Pty Ltd based on certain contingencies. As I said, I will get you the details of that arrangement. The arrangement includes the possibility of a move to Fern Hill. No decision has been made and no contract has been signed committing ACTTAB to move to Fern Hill. As I said, the issue of where they move to and whether in fact they proceed with an arrangement with John Hindmarsh Pty Ltd at all is a matter for further discussion and involvement by the government. As I said, Mr Speaker, our priority would be, if it is technically possible, to locate that headquarters for ACTTAB at Gungahlin.

It is not surprising that lawyers should be involved in drawing up those agreements. It is appropriate and prudent to have lawyers involved in preparing such matters.

Mr Quinlan: Just in case.

MR HUMPHRIES: Indeed, just in case. They are exploring a potential commercial relationship. It is quite natural and obvious that they would do that. Mr Speaker, the other point is that ACTTAB is an authority with the capacity to make a decision for itself on this matter. The government does not have to vet or approve its negotiations with other parties. If they have seen fit to instruct lawyers then that is their lookout. It is their

job to protect their asset base, to protect their income, and to deliver a dividend to the government and the community. Within those requirements, they have a certain latitude about how they handle the commercial responsibilities.

Public works expenditure

MR QUINLAN: My question is to the Minister for Urban Services. In the second half of last financial year the government brought down a mini-budget, entitled Appropriation Bill No 2, for $43 million worth of additional expenditures. Incorporated in that was $2.7 million, under the heading "Urban services", for a range of maintenance work, including line marking, road resealing—I presume that means resurfacing for the purpose of this question—and cycle path maintenance.

In the estimates hearings on this appropriation bill in April, I queried the ability of the government and your department to observe due process in purchasing—remember that the government has already had its road to Damascus of due process post Bruce—to prepare and let contracts for significant works and to have them completed between the time of the passage of the supplementary bill and the end of the financial year. I was assured that the extension of existing contracts would allow the works to be ordered, completed and paid for in two months by you or officers with you.

I had a look at the government web site and saw three contracts for road resurfacing: a rural, a southside and a northside contract. All were let in 1999. In fact, if they were completed by the due date, they would have been completed by February this year at the latest. One of them says "in four months", but I assume that is a misprint. The only one of those that have been extended is the contract for northside, and that extension took place in November last year.

So how has the additional resurfacing portion of the $2.7 million of maintenance been ordered, managed and, I assume, completed between the passage of Appropriation Bill No 2 and 30 June?

MR SMYTH: My memory of that was that the chief executive proposed extending the existing contracts, and those options are often written into contracts. As we came into surplus, with urgent works that needed doing and wanting to deliver the sorts of services that the people of Canberra wanted and deserved, we sought that extra money, including the $2.7 million for the road works.

I will have to take the specifics of the question on notice and find out which contracts, if any, were extended and what progress was made.

MR QUINLAN: I can only ask you, if you do follow that up, to do it properly, given that there are only a couple of sitting weeks left.

Education expenditure

MR SPEAKER: I call Mrs Burke.

Mr Berry: Are you going to ask about the 5,800 jobs that have gone since last September; or the rising unemployment under—

MR SPEAKER: Mr Berry, if you are not careful I will take that as your question.

MRS BURKE: Mr Speaker, my question is to the Minister for Education, Mr Stefaniak. Minister, I note that the government has undertaken to support the education of children by providing free school buses from 3 September this year to eligible children at an estimated aggregate cost of $27 million over the next four years. Minister, what is the value of this assistance to an average family with school age children? Has the minister considered alternative ways for using those funds?

MR STEFANIAK: I thank the member for her excellent question. The provision of a free school bus scheme for Canberra children was first promised by my party in 1995. That is an election commitment that we have been slower to fulfil but it was an important electoral issue in that campaign and I believe it was certainly a factor in the success of the party gaining government.

Of course, history and the Auditor-General have subsequently shown that the Labor Party left the ACT's economy in disarray—one might say, in tatters—with an operating loss of $344 million when we took over the treasury bench. I know that that will probably get a few opposition members going and Ted will not agree, but that is what the Auditor said.

We would certainly have liked to implement that commitment at the time but the first priority, of course, was to restore the health of the budget, and I think, Mrs Burke, you realise we have done that. There has been a big effort over the last six years to achieve that. We now have a balanced budget and that has enabled us to look again at that commitment and, indeed, a lot of other things that you see in the budget—and I am not going to talk about them.

We believe that parties should be held accountable for their promises. We can now afford to deliver on that promise. But we have gone a lot further than that. Not only have we been able to provide those funds—they come from transport, so I suppose it is irrelevant for me to speak about the alternative ways of using them—but we also provided an extra $91.5 million for education programs over the next four years.

Mr Stanhope: $27 million less than us.

MR STEFANIAK: I am very glad Mr Stanhope says "$27 million less than us" because I am going to talk about that in a second. But $40 million of that is for initiatives and new programs. Guess what—they have inherited all of those. They have said, "Yes, they are good programs. Let's do that." These are all of our programs. They might not have any good fresh ideas but at least they recognise good programs when they see them. I do not mind if they take some of our good ideas and use them.

Mr Corbell: On a point of order, Mr Speaker: the question was: what was the average cost to households? We are two minutes into the answer and we are still to get an answer to Mrs Burke's question.

MR SPEAKER: I am surprised that you can hear the answer above the interjections from your side. There is no point of order.

MR STEFANIAK: Mr Speaker, included in those programs is our kindergarten to year 2 initiative of $25 million over four years, something which even the education union and the P&C thought was excellent. Indeed, the P&C had not even contemplated asking for an initiative like that. There are other initiatives—we know them all.

Mr Berry: Mr Speaker, on a point of order: he is not going to answer the question. I would rather ask Mr Humphries what he is going to do about the unemployed.

MR STEFANIAK: You will have your chance.

MR SPEAKER: Order! Sit down and don't do that again, Mr Berry, otherwise I will deal with you.

MR STEFANIAK: What value is the assistance to the average family? I might say that 17,000 students have already applied for that assistance. The value to the average family? On average, families will save $400 per student per annum in the cost of getting to school and going home. We anticipate that there will be a further increase in students participating in the scheme from the new 2002 school year. We have provided funding to accommodate that growth.

Mrs Burke asked whether there have been any alternatives proposed for the free school bus program.

Mr Berry: By Labor. We will put it into schools.

MR STEFANIAK: Not from us but from Labor. Apart from grabbing all of our initiatives, they say they will spend that on education funding. Let us have a look at that. I think we are getting into Berry-nomics again, Mr Speaker. Labor wants to take $8 million of the $27 million which, as my colleague the Urban Services Minister said, is actually for capital expenditure, and spend it on recurrent programs. That does not really work after the first year. I am sure that at least the shadow Treasurer would recognise that as a no-no.

Mr Berry made the same budgetary mistake in the lead up to the last election so we are probably seeing a bit of Berry-nomics here. He thinks he can get his hands on it and do with it as he pleases. Well, you cannot and I think Mr Quinlan should tell him so. You cannot use capital appropriations for recurrent purposes—end of story.

But it then gets a little bit worse because we know of one of the initiatives that will apply to the remaining $19 million. Labor wants to extend our brilliant kindergarten to year 2 scheme to include year 3 students. That might sound pretty reasonable. Interestingly, that will cost $11 million over four years. There is a lot of literature which suggests that there

is little educational benefit for smaller class sizes in that cohort. But, okay, they have made that promise and maybe you could perhaps do that a bit better.

So that leaves him $8 million for other initiatives. The Labor Party already concedes that the alternate bus fare will be about $800,000 per annum. So we have $4.8 million left for the other proposals. There is a raft of them. I saw half a page of about 15 other things they would like to spend money on. But they have $1.2 million per annum to do that. That is not going to go very far, Wayne.

So I think Labor's budgeting credentials have again been exposed as unsustainable and fanciful. It would be a bit of a worry if this lot took over after the next election because I am not too keen on their economics.

Australian workplace agreements

MR BERRY: My question is to the Chief Minister. In a statement issued yesterday, the Chief Minister said I was wrong when I described secret AWAs forced on ACT government workers as compulsory. Advertisements for ACT government positions state:

> Terms and conditions will be regulated under an Australian workplace agreement.

I have had a look at the *Concise Oxford Dictionary*. It defines "will" as "intend unconditionally". I looked right through and I could not find "might" or "may be".

Mr Stanhope: Or "negotiable".

MR BERRY: Or "negotiable"—none of that. It was not there. It always comes out "compulsory". It is "intend unconditionally"—in other words, compulsory. Since this was raised yesterday, information has been flooding into my office. I refer to the "e-bulletin" of Education and Community Services. I draw attention to a position in the sport and corporate resources division:

> Note. The successful applicant will be offered an attractive performance-based package.

In other words, if they do not take it, they do not get the job. It goes on. It gets even better. I go on to a position in the youth and family services division:

> Note. This position has an attractive remuneration package, the terms and conditions of which will be regulated—

not "shall be negotiated", "might be negotiated" or "can be negotiated"—

> under an Australian workplace agreement.

Here is another one in the sport and corporate resources division:

> This position has an attractive remuneration package, the terms and conditions of which will be regulated under an Australian workplace agreement.

In response to this question, will the Chief Minister tell this Assembly which part of the words "will be regulated under an Australian workplace agreement" he does not understand? Let us not forget that the Chief Minister said that these are entirely—what was the word?—voluntary. Which part of the words "will be regulated under an Australian workplace agreement" does he not understand? When will the Chief Minister give us the pleasure of apologising for his inaccurate and misleading statement in the Assembly when he said that these agreements were entirely voluntary? None of them are.

MR HUMPHRIES: Mr Berry's lawyerly skills are about as good as his economic skills. I indicated very unambiguously yesterday in the house, and I do so again today, that the Australian workplace agreements—

Mr Berry: When you were caught out.

MR HUMPHRIES: If he does not want to hear my answer, I am happy to sit down, Mr Speaker.

MR SPEAKER: If it continues, I will be happy to suggest that you do.

MR HUMPHRIES: The fact is that those Australian workplace agreements are voluntary, not just in respect of the department from which that advertisement comes but in all parts of the government. If a piece of information has come from some area of the government which says something to the contrary, last time I looked the government was in charge—the ministers were in charge—of these processes, not somebody else, so that view will prevail. I have indicated already that the indication in that statement yesterday was wrong. What I said to the house yesterday was correct and remains the case.

What part of "will" do I not understand? I do not know. I might ask Mr Quinlan that question. I remember him saying that he "will" resign if the $344 million figure for the operating loss under Labor is substantiated. And we are still waiting. If he "will" resign, I "will" tell the Assembly, as I have said before, that there will be only voluntary AWAs under this government.

MR BERRY: I ask a supplementary question. Does the Chief Minister know that the Workplace Relations Act requires Australian workplace agreements to satisfy the requirement that the employee genuinely consented to making the AWA? Now that he has changed the rules, will he advise the Employment Advocate that the ACT government has offended the intentions of the Workplace Relations Act by compelling employees to sign up for AWAs and that these AWAs signed up under those conditions are probably unlawful?

Mr Moore: I take a point of order, Mr Speaker. That question asks for a legal opinion.

MR SPEAKER: The last part certainly calls for something like that. The first part I am not sure about.

MR HUMPHRIES: I would trust Mr Berry's legal opinion on the Australian workplace legislation about as far as I would trust his views on how to run a surplus in this place. The view of the government is perfectly clear. No doubts should be held about that

matter. If those people opposite want to run around pretending that they have uncovered secret agreements and people being coerced into taking AWAs they do not wish to take, they might care to produce such people. I am sure that someone behind all the information flooding into your office, Mr Berry, would be happy to say, "Yes, I was coerced into signing an AWA."

Mr Corbell: Be careful what you wish for, Gary.

MR HUMPHRIES: Do you have any names? Anybody? I think that speaks volumes in itself, Mr Speaker.

Gungahlin Drive extension

MR KAINE: My question is to Mr Hird in his role as the non-partisan chairman of the Planning and Urban Services Committee. We know that it is an important and busy committee, undertaking as it does:

> … a huge workload of inquiring into, reporting and recommending to the Assembly on many of the issues that affect your family and every other member of the community. Issues such as roads, freeways, street lighting, trees, planning, changes to the Territory Plan, buses, taxis even nature strips, kerb and guttering—all come within the ambit of the Planning and Urban Services Committee.

We know that, Mr Speaker, because I was quoting from what appears to be a form letter signed by Mr Hird and sent to voters in his electorate. We know that that is right because he says so. Of particular interest to me in this letter from the impartial, unbiased, independent, unprejudiced, open-minded and even-handed, not to mention fair, chairman of the Planning and Urban Services Committee is the following statement in his letter to constituents:

> I am now seeking your support to ensure that one of those important issues—the Gungahlin Drive Extension—goes ahead. I urge you to sign the enclosed petition calling for the passage of the Planning and Urban Services Report,—

I presume that by that he means the one relating to the Gungahlin Drive extension, Mr Speaker, which is a controversial issue—

> to seek other signatures, and return the petition to me as soon as possible so that I can present it to the Assembly.

That was from a so-called non-partisan committee chair. Mr Hird, how, as an impartial, unbiased, open-minded, even-handed and fair committee chair, do you justify openly pushing to the community the position of one element of this controversial issue at the expense of another?

MR HIRD: I thank Mr Kaine for being my campaign director on this issue; I could not put it better myself. The fact is, just by surprise, that the electorate of Ginninderra happens to be very important and dear to my heart, as I am sure that the electorate of Brindabella will be very important and dear to Mr Kaine's heart if he gets re-elected. The fact is that a member needs to build a bridge between himself or herself and his or her

constituents. That is exactly what I have done and I look forward to the response that I have invited from my constituents.

MR KAINE: I have a supplementary question. Since this is clearly electoral material, can the chairman of the Planning and Urban Services Committee assure Mr Speaker and other members of this place—I ask you, Mr Hird, to be careful in answering this question; you would not want to mislead anybody—that no Assembly resources were used in creating and distributing this blatant electioneering material? I seek leave to table the document I referred to, which has "Legislative Assembly for the Australian Capital Territory" on the top.

Leave granted.

MR KAINE: I present the following paper:

> Planning and Urban Services—Standing Committee—Facsimile copy of undated constituent letter concerning the work of the Committee from Harold Hird MLA.

MR HIRD: Mr Speaker, I can answer the question simply by saying yes. My resources as a member of this place certainly were used. I do not want to mislead anyone. That is just the same as Mr Kaine or Mr Stanhope writing to any of his constituents. Of course, Mr Kaine is up to mischief, as usual. Let me say that this report, known as *Proposals for the Gungahlin Drive extension (John Dedman Parkway)—Report No 67*, was tabled in this place and it states the view of the majority of my committee. To finish on that, I intend to use the resources that are available to me to perform the job that I am getting paid to do. It would be good for you, Mr Kaine, to do exactly the same as you may well get re-elected on 20 October next.

ACTTAB

MR CORBELL: My question is to the Chief Minister. On 10 July last year, Chief Minister, you, as a shareholder of ACTTAB, endorsed a decision of the ACTTAB board to redevelop its site in Dickson for a new headquarters. Why is the ACTTAB board now acting against your endorsement of 10 July last year by seeking to relocate its headquarters?

MR HUMPHRIES: It is not acting against my endorsement, Mr Speaker. My endorsement was about the development of the site, which is proceeding. It was for them to obtain new headquarters. Mr Corbell was absent for my earlier answer to a question from Mr Stanhope about that issue. He would have had that question fully addressed if he had been in the chamber at the time.

Mr Stanhope: It is a different question.

MR HUMPHRIES: I covered the issue, though, in my answer.

MR CORBELL: I have a supplementary question. Chief Minister, when did the ACTTAB board agree that it would consider relocating its headquarters as opposed to redeveloping and maintaining on its existing site in Dickson? Will you table a copy of the ACTTAB board's decision to that effect?

MR HUMPHRIES: I cannot answer that question without taking it on notice. I will find out when it was and I will get back to Mr Corbell.

Stamp duty rebates

MR OSBORNE: My question is to the Treasurer. Treasurer, as you are aware, the ACT offers stamp duty rebates for home owners within certain parameters. To briefly explain to other members, there are three hurdles to qualifying. The first is that there is a full concession for a home worth less than $116,000, rising on a sliding scale until the concession cuts out for a home costing over $140,000. The second is a combined family income threshold, depending on the number of dependent children in the family. This income test excludes couples with no children who together earn more than $45,000, rising to families with five children or more that earn over $50,750. The third is that none of the property owners may have owned or partially owned a property anywhere for at least two years.

The first two criteria have become excessively restrictive. In comparison, home buyers in Queanbeyan or Jerrabomberra are generally much better off. They have no family income test and pay no stamp duty on homes costing under $175,000, which cuts out at a top rate of $250,000. However, unlike our scheme, their rebates are only for first home buyers.

Earlier this week, my office checked on the cost of several listings of homes for sale in Canberra. It should come as no surprise that there are no new homes for sale under our threshold of $140,000 and very few established homes either. Also, I doubt that families earning $45,000 would be an attractive proposition to a bank or mortgage provider.

In short, given the two first home buyers grants on offer this year, our concession schemes seem fairly useless. Would your government consider changing our concession scheme to at least the same scale as across the border so that it becomes relevant to the cost of homes in Canberra and allows home buyers to take advantage of the Commonwealth grants on offer?

MR HUMPHRIES: Mr Speaker, I thank Mr Osborne for that question. He raises the issue of making parallel the concessions available in New South Wales and the ACT for such things as the purchase of homes. I understand that the ACT scheme is set at levels that Mr Osborne has suggested. On that basis, there is a case for revising those benefits to raise the threshold for the income a person may earn before they miss out on a concession. Perhaps there is also a case for considering houses in a higher price bracket to be eligible for this stamp duty concession.

I might say that, at the present time, there is no argument for the need to stimulate the building industry in the ACT. The building industry has had tremendous growth in the last few months. Last quarter it recorded one of its strongest periods of growth ever—34.7 per cent—almost as high as the growth in the last quarter before the advent of the GST, when there was a huge amount of pre-GST activity. I have no doubt that people are getting out there and buying or building their houses in the ACT.

Nonetheless, in taking advantage of Commonwealth grants, people in the ACT who are genuinely in need deserve to be able to use the concessions. Perhaps our concessions exclude too many people who are genuinely in need. Mr Speaker, I will examine the matters Mr Osborne raises and see if we can address his concerns.

Consumer credit assistance

MR RUGENDYKE: My question is to the fair trading minister, Mr Stefaniak. Minister, ACTCOSS has provided members with correspondence relating to evidence presented to the most recent Estimates Committee about consumer credit assistance referrals to ACT Legal Aid and the Office of Fair Trading. There certainly appears to be an inconsistency between the volume of referrals reported to the Estimates Committee in comparison to the information supplied to you by ACTCOSS. Are you aware of these discrepancies?

MR STEFANIAK: Not off the top of my head, Mr Rugendyke. I will check into that and see what ACTCOSS says and what the office says. I have a feeling that I may have answered that, but let me check into that. I seem to recall I might have had something about it four or five weeks ago. Let me check into that.

MR RUGENDYKE: Thank you, minister. My supplementary question is more or less what you said. Could you investigate these issues and report back to the Assembly with any revised details or discrepancies?

MR STEFANIAK: Certainly, Mr Rugendyke. If I have responded, and I think I may have, I will send you any details.

Visiting medical officer

MR WOOD: My question is to the minister for health. Minister, could you tell the Assembly whether a review of the case that led to the dismissal of Dr Les Yeaman, a visiting medical officer to Canberra Hospital, has been completed, if indeed held? I believe it has been held, but has it been completed? Can you confirm that the review in fact cleared Dr Yeaman of any wrongdoing and that a compensation claim is now being negotiated?

MR MOORE: If a compensation claim is being negotiated, it may well be a matter before the courts. I remember the case. Dr Yeaman is a urologist who, on the surface, it appears acted inappropriately in taking a patient from another urologist and removing part or all of his penis in circumstances that I would consider entirely inappropriate.

My understanding is that there was a review and that Dr Yeaman has moved out of Canberra. I have not followed the matter particularly closely since. But since you have asked the question, Mr Wood, I shall take it on notice and get back to you.

MR WOOD: I ask a supplementary question. Could you add something to that, Mr Moore. As I recall, you made a statement in the Assembly about the issue. I would expect your interest to continue. My further question is: if he is in Canberra, has he been offered his job back?

MR MOORE: To the best of my knowledge, he has not been offered his job back. The question raises a very important issue, Mr Wood. I was disappointed that you and Mr Hird were not able to make it today to the launch of the incontinence clinic. I know that both of you had accepted invitations. We accept invitations to things on sitting days even though we might not be able to attend.

Mr Rugendyke: I tried to get there, but I missed it too. I apologise.

MR MOORE: Mr Rugendyke was unable to make it either. I had to more or less force the television people, who were there to ask me about corrections issues, to consider the matter of incontinence. An issue that urologists deal with is prostate cancer. We have just launched the incontinence clinic, a free clinic at the health building in Moore Street. I was able to point out some of the advantages, including men learning how to do their pelvic floor exercises.

Mr Stefaniak: Show us how.

MR MOORE: Like this, Bill. You will be pleased to know I am doing my pelvic floor exercises at this very minute as I speak, and I hope other men are able to do them as well. These exercises not only give you an advantage in dealing with incontinence but also help you get and maintain an erection so that you will be able to avoid the use of Viagra, which could be useful as well.

The incontinence clinic at the Moore Street building will be open from 9.30 to 4.00 each day and will be a free service. Mr Wood's health committee recommended it in their first report to this Assembly on men's health. I thought you would be pleased to know how that is going.

Any further questions about Dr Yeaman and his review I will take on notice.

Olympic Games in Beijing

MS TUCKER: My question is to the Chief Minister. Given the sister city relationship Canberra has with Beijing and the fact that Canberra was such a strong partner in supporting Beijing's bid for the Olympic Games, what is your understanding of the capacity of Falun Gong practitioners to compete in the Olympic Games in China?

MR HUMPHRIES: I do not know what capacity there is for Falun Gong practitioners to compete in China. It is not a matter which has intruded itself into negotiations between Canberra and Beijing about the sister city relationship. I am not particularly surprised by that fact. I am not sure that I am in a position to find out even what the position of Falun Gong practitioners would be at the Beijing Olympics in seven years time, but I will say that the issues that Ms Tucker has raised of respect for human rights are ones that I have already responded to in this place in regard to an earlier question and I would hope that we will see wide access to the Olympic Games by people from all religious and other persuasions irrespective of their backgrounds and that there will be an open and eclectic Olympic Games in 2008.

MS TUCKER: I have a supplementary question, Mr Speaker. That was a very unsatisfactory answer. It gives the impression that you have not taken the trouble to find out.

MR SPEAKER: There should be no preamble, thank you. I do not want an argument.

MS TUCKER: I am asking my question now. Does that mean that the Liberal Party does not support the notion that the Olympics are, in fact, open and should be open to people no matter what their religious persuasion? If you care about that, why did you not ask?

MR HUMPHRIES: The Liberal Party does not have a policy on the Beijing Olympic Games, I am sorry to tell you. We have overlooked getting around to making such a policy before this election or any other election, for that matter. We do not have a policy for any Olympic Games. I would like to see an open Olympic Games as well, Ms Tucker. I would like to see games in which everybody who was able to and who was sufficiently qualified in athletic terms would be able to attend and play in those games, but it is not a matter over which I have any control or any capacity even to influence, I suspect, in my humble position as ACT Chief Minister, much as I would love to be able to influence world events. I am working on it, Ms Tucker, but for the moment I do not have that capacity and, with great respect, it is not a matter that should be fielded by me in these circumstances.

Centrelink information on student absences

MR HARGREAVES: My question is to the Minister for Education. Yesterday, in an answer to a question from Mr Berry about the provision by his department to Centrelink of information on college student attendances, the minister said his advice was that the department was required to pass the information. In today's *Canberra Times* his spokesman is reported as saying the department had been obliged to make the changes in the way the information was gathered and reported because of new federal legislation.

Can the minister tell the Assembly what federal legislation requires the ACT government to pass information about all college students to Centrelink? If there is a requirement to pass on the information, can he explain why the ACT is one of only three jurisdictions, along with Queensland and Western Australia, which has adopted the practice?

MR STEFANIAK: I am just getting the name of the act for you, Mr Hargreaves. Yes, I read that report too, and I indicated that there are a couple of things I have to get back to Mr Berry on. It is the Social Security Administration Act 1999. The other relevant acts are the Student Assistance Act 1973, the Data-Matching Program (Assistance and Tax) Act 1990, the Privacy Act 1988 and the Privacy Commissioner's Guidelines on Data Matching. Unmatched data is to be deleted within 90 days.

I was interested in some of the comments in the article and also something from the Narrabundah magazine of June. There may well be ways in which Centrelink and the Commonwealth can improve its performance, Mr Hargreaves. I am quite happy to look at that too and to see whether improvements can be made. It seems that this issue concerns some people. I can well see the need for data to be given to them so that

students who need payments from Centrelink get that payment and that the right students get the payment. There might be some other areas where they might need some data.

I am quite happy to look at some of those issues and if need be take it up with my federal counterpart. Certainly, even from what you concede in your question, the department is merely doing what it seems it has to do. That is not to say that maybe the Commonwealth procedures cannot be improved. That is something I am happy to look into and take up with my federal counterpart.

MR HARGREAVES: I thank the minister for the list of Commonwealth legislation and we will have a look at it. My supplementary question is this: since the minister's spokesman was also reported as saying colleges have been informed of the process, can the minister say when colleges were informed? Can he confirm that in fact they were informed months after the decision was made, were given no opportunity to be involved in that decision, and when they did get the opportunity to warn that the idea was seriously flawed they were simply ignored?

MR STEFANIAK: As to when and where, I have not got that information at my fingertips, Mr Hargreaves. I would need to get that for you. You can rest assured I will have a look at it. If there are improvements that can be made, either at the ACT level or at the federal level, and this is very much a federal issue—I see that Larry Anthony was having the running on it—I am happy to make suggestions to them on how they can improve.

Canberra Hospital

MR HIRD: Mr Speaker, as a former medical sergeant, I was surprised and alarmed to hear some media hype this morning about the great Canberra Hospital. I wish to direct a question to Mr Moore in his capacity as minister for health. The media hype was to do with calling in the army at Canberra Hospital. There is some alarm in the community with respect to that. Minister, can you advise the Assembly on the true state of the hospital and on what the government has been doing to keep up the best possible service to the community and to the region?

MR MOORE: I thank Mr Hird for that question. I do need to dispel some of the media hype associated with this matter, particularly the sensationalism of the *Canberra Times* on this issue. Let me immediately dispel the nonsense caused by the media's concept of military intervention. There are not going to be any tanks, big ambulances or whatever in jungle green or khaki coming to the hospital. It appears to be a fictional reference to the fact that all of Canberra's hospitals are working cooperatively to assist the major hospital at Garran if it has a major overflow in emergency demand.

I spoke to all the hospital CEOs, including those of the smaller private hospitals, last month and I can report that there is great goodwill between them to work as a system. I use this opportunity to say thank you to the John James private hospital, the National Capital Private Hospital and the Lidia Perin private hospital, all of which were willing to do what was needed should that happen. I should also point out that others spoke to Queanbeyan and other regional hospitals as well and they were willing to be very cooperative.

As it happened, when I did a phone around of the small hospitals I also included speaking to Duntroon. The commandant has promised to try to provide a small number of beds, if asked, but consistent with their normal health care activities and consistent with the way that military services operate in the community. That is what was behind the ludicrous reference to military support and the silly, sensationalist headline that we are beginning to become used to with the *Canberra Times*.

I should point out that throughout the last several weeks the Canberra Hospital has not needed to rely on that network, other than to use normal coordination protocols with our second largest hospital, Calvary. As with every hospital in the nation—I can tell you that the health ministers discussed it at length last week at the health ministers council—the winter has been a difficult period. The public do need to be aware that winter illness and, for Canberra, ski field accidents cause peak demand and a peak workload for our staff and for our hospital resources.

Be in no doubt that this is a difficult period for every hospital. Three weeks ago, during school holidays, shift managers found it impossible to get staff on to fill the roster, causing delays and stress. With the end of the school holidays and the return of many staff to availability, the situation has eased a little; but there are currently 39 fully funded nursing positions at the hospital advertised and waiting to be filled, so it is not an issue of funding.

The major achievement of the government has been to get the ACT finances back into the black, allowing us to commit dramatic new resources to the hospital budget in recent years. In the 2001 budget, the increase was nearly $5 million, or about 2.9 per cent. This year, with the budget stabilised, we were able to provide an astonishing increase of $20.8 million—over 10 per cent. I know that sometimes Mr Quinlan questions our figures, but I am sure that he will agree that the figure is $25.8 million over two years. That is an effort with hospital funding of which I and other members of the government are justifiably proud.

The government has also moved to address the national problem that there are simply not enough nurses in the work force to meet all the demands of the Australian hospital system. Last year we introduced new training programs and incentives. We also put forward a major package of wage increases and moved to allow nurses to work flexible hours if they wished, allowing a wider range of trained nurses to re-enter the work force. That issue also was a matter of major concern for all health ministers across the nation. We discussed the issue, firstly in a private meeting and later in full council, for about two hours.

The last reforms that we offered to our nurses were successful at Calvary Hospital, where staff endorsed them with an 83 per cent yes vote. But, as everyone knows, the ANF blocked these improvements at the Canberra Hospital, denying staff a vote and campaigning against the wage rise and more flexible hours. The union has stridently opposed roster flexibility. We can assume that Mr Berry's ALP will do likewise. Of course, Mr Berry is Labor's industrial relations and health mogul and his antiquated views will, no doubt, control the Labor Party's policy, as it has in so many ways and will continue to do so.

Finally, we heard this week from the Electoral Commission that a political party of nurses has been formed. I always say congratulations to anybody who is prepared to put up his or her hand to do the very difficult job that all members of the Assembly do. The nurses union has been hinting for some time that this is its real agenda. Unfortunately, we now know that the political ambition led earlier this year to the blocking of a 12 per cent wage rise and better working hours. I think that is incredibly sad.

All of that shows that the true supporters of our nursing work force are not the political posers opposite or in the union, but a government which cares about wages and conditions, respects workplace flexibility, allows workplace democracy and runs the territory well enough to generate a $20 million funding increase to the hospital, in spite of the fact that it started with a $344 million operating loss.

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

Personal explanations

MRS BURKE: Mr Speaker, I seek leave of the chair to speak under standing order 46, which relates to personal explanations.

MR SPEAKER: Please proceed.

MRS BURKE: I know that women are not supposed to be in this place, Mr Speaker; at least, the Labor Party would much prefer if Ms Tucker and I did not grace this place with our presence. But the reality is that Ms Tucker and I are here, and we are here to stay. Isn't that right, Ms Tucker?

Mr Stanhope: Is this a debate, Mr Speaker?

MR SPEAKER: No, it is not a debate; it is a personal explanation.

MRS BURKE: Yesterday, Mr Quinlan was noted to say, "Condescending, bloody woman" during Mr Humphries' statement on the tabling of executive public servant contracts. For your information, Mr Speaker, the quote appears on page 58 of the draft *Hansard*. Mr Speaker, I would like it to be noted that I was the only woman present in the chamber at the time.

Mr Berry: Mr Speaker, I rise to a point of order. If Mrs Burke wants to raise a point of order, there is an appropriate standing order she can go to.

Mr Stefaniak: It is a personal explanation.

Mr Berry: I have not heard one bit of a personal matter.

MR SPEAKER: I am having difficulty establishing what the personal explanation might be.

MRS BURKE: Mr Speaker, I was the only woman present in the chamber, and I am getting to it. If members will just give me two minutes, it will become clear. Mr Speaker, I would like it to be noted that I was the only woman present in the chamber at the time. With this in mind, the comment could only have been directed at me.

Mr Speaker, the making of comments like those is one of the main reasons the people of Canberra have little respect for the Labor Party and brings politicians into disrepute. The people have such a low regard for Labor's policies because, despite all the high and mighty words of the Leader of the Opposition and, it should be noted, spokesman for the status of women—

Mr Corbell: Mr Speaker, I rise to a point of order. Mrs Burke is, of course, entirely entitled to raise a personal explanation, but she is now debating the matter and is out of order.

MR SPEAKER: Indeed, I have to uphold that point of order, Mrs Burke.

MRS BURKE: Mr Quinlan said in this place yesterday, "Condescending, bloody woman." The comment was derogatory and mean spirited, but not unexpected from the Labor Party.

MR SPEAKER: Just a moment, please, Mrs Burke. I will not allow a personal explanation to become politicised. Just explain where you believe that you have been personally attacked.

Mr Humphries: Mr Speaker, I think that the comments made by Mr Quinlan, as reported in *Hansard*, are unparliamentary, and I would ask that he withdraw them.

Mr Quinlan: Would someone please be so kind as to show me a copy of the *Hansard*?

MR SPEAKER: Excuse me, please. Mrs Burke, if you finish your personal explanation, I will deal with this matter.

MRS BURKE: Thank you, Mr Speaker. I just ask that Mr Quinlan withdraw that remark.

MR SPEAKER: Mr Quinlan, at page 59 of yesterday's *Hansard* there is the statement: "Condescending, bloody woman." I do not know to whom it referred. I have, however, checked on comments that are unparliamentary and found reference to the expression "silly woman", which was subsequently withdrawn. Under the circumstances, I believe that you should withdraw the comment. I would also draw members' attention to page 28 of *Hansard*, where Mr Moore is quoted as saying something other than, "You give me the pips."

Mr Moore: Is that right?

MR SPEAKER: Again, what is in *Hansard* is unparliamentary and I would ask you to withdraw it.

Mr Moore: Mr Speaker, I would quickly withdraw anything that I said that was unparliamentary. Certainly, I would never have said anything like "condescending, bloody woman". I am surprised that the Leader of the Opposition, the spokesman on women's affairs, has not demanded from one of his troops that he apologise.

MR SPEAKER: I am asking both members to withdraw, please.

Mr Quinlan: I do not even recall the remark and I have not seen the *Hansard*; but if I did make it, I withdraw it. But if I did make it, I would also like to emphasise the fact that the main thrust of that would be "condescending".

MR SPEAKER: Thank you.

Mr Quinlan: And I do not think that that is unparliamentary.

Mr Humphries: Mr Speaker, I think that that is only a partial withdrawal. I think it underscores the attitude of the boys from the ALP towards women and I think the Leader of the Opposition ought to ask his deputy to withdraw that remark unqualifiedly.

Mr Quinlan: On that point of order, Mr Speaker: I withdraw the words "bloody woman", if that is what I said, if I did, or if that is what *Hansard* recorded. I do not withdraw "condescending".

Questions without notice

Police funding

MR SMYTH: Yesterday, Mr Hargreaves asked where the figure of $14.5 million came from. The figure was the amount initially requested by the AFP following an internal review and attribution of enabling costs for the ACT regional policing.

V8 supercar race

MR SMYTH: Mr Kaine asked some questions about cash payments to AVESCO. The GMC400 report does not contain any financial details relating to payments made to AVESCO. The payment that would have been made to AVESCO in the event of cessation of the contract also is not included. There is a disclosure clause in the contract between AVESCO and CTEC that precludes revealing the amount paid to AVESCO. This information is therefore commercial-in-confidence. The contract was executed on 7 December 1999, prior to the enactment of the public access legislation.

Mr Berry asked, upon notice, a question about the AVESCO fee at the Select Committee on Estimates hearing on 14 May 2001.

Mr Stanhope: Mrs Burke stood yesterday and asked that it be withdrawn against you.

MR SPEAKER: Just a moment, please, I cannot hear Mr Smyth.

Mr Humphries: I know, because she did not hear it properly. She knows what it says.

Mr Stanhope: Goodness me, how pathetic!

MR SMYTH: Mr Speaker, the Leader of the Opposition just blurts out these little things the whole time, making it impossible to read. I am sure that one of the standing orders says that members will be heard in silence.

MR SPEAKER: I thought you were actually telling Mr Hargreaves.

MR SMYTH: Mr Speaker, the question was: does CTEC pay the Australian V8 supercar company for the rights to hold the race? In order to comply with Mr Berry's question on notice, CTEC requested the chairman of AVESCO to provide his written consent to the release of the information to members of the select committee. AVESCO formally declined to give its consent to the release of details of the fee applicable to the GMC400, in view of the commercially sensitive nature of the information, which, if released, would compromise AVESCO's commercial interests in relation to other contracts in this field.

Mr Speaker, the payment to AVESCO for the 2000 event is contained in CTEC's annual report for 1999-2000 under the line item for fees and charges of $1.455 million. Other charges contained within this item are for the CAMS permit fee, insurance, emergency services, radio band fee, management and design fees, and NCA works approval and noise monitoring.

Mr Kaine also asked about payments that would have to be made to the organisation in the event of the car race not being run for the full five years of the contract. There are clauses in the contract with regard to termination, as there are in other events contracts. The response earlier also applies to these clauses, but we can ask AVESCO whether it is willing to release that information, although in many ways the question is irrelevant because the scenario is simply not possible. Two years of the 5-year event have already run. We fully expect to run the final three years of the event.

Budget forecasts

MR HUMPHRIES: Yesterday, Mr Quinlan asked me a question relating to the May 2001 consolidated financial management report, tabled in the Assembly on Tuesday. I have to say that I was perplexed by the question at the time, and reading the *Hansard* has made me even more perplexed. Mr Quinlan, the shadow Treasurer, stated that the report "shows a projected surplus for the current financial year of $45.6 million". Later in the question I queried the comment about the current financial year, and he confirmed that he was talking about the current financial year, because the consolidated financial management report relates only to last financial year, the financial year ending 31 May 2001. However, from looking at the figures in that document, it is clear that that was the document to which he was referring.

Mr Quinlan proceeded to ask me whether that figure of $45.6 million takes into account supplementary appropriations made this year—he said this year—including the $30 million for HIH and the $43 million mini-budget, as he put it, that was brought down.

Mr Speaker, those comments show a great misunderstanding of what is in this consolidated financial management report. First of all, as I have said, this report deals with last financial year, not this financial year. Secondly, the shadow Treasurer spoke of a projected surplus of $45.6 million, let us say $46 million. I could not find that figure in the paper until I turned to the page after the one where I was looking at the government surplus and found, instead, the whole-of-government figure, and there was an amount of $46 million.

Mr Speaker, the whole-of-government figure is not the figure on which a government surplus is calculated. That figure includes the public trading enterprises sector, government businesses. The surplus about which we talk versus the operating loss about which we also talk, quite a lot lately, is a figure derived from the result from the general government sector. That is at the top half of page 2 of that report, Mr Speaker. That figure shows an estimated outcome for 2000-01 of $12 million, much closer to the figure that was actually projected at the budget of last year than the $46 million Mr Quinlan quoted a little while ago.

I repeat for Mr Quinlan's benefit as he has just returned to the chamber that the papers do not show a projected surplus—I am quoting from his question yesterday—for the current financial year of $45.6 million. You have read the wrong table, Mr Quinlan. You should be looking at the page before the page you were reading, page 2, which shows the result for the general government sector. The result there is, as you can see in the last column, $12 million, not $46 million. Obviously, there is a difference between the PTE sector and the general government sector, which I will not explain; I am sure that Mr Quinlan understands at least that much.

Mr Quinlan asked me whether the projected surplus has taken into account the $30 million appropriation for HIH and the $43 million, as he put it, mini-budget. Yes, of course it does. If Mr Quinlan looks at page 2, he will see that that is referred to, particularly as far as HIH is concerned. I quote from the report:

> The estimated outcome has been adjusted to reflect the impact on the recent passing of the Appropriation (HIH) Bill 2000-2001.

So the question of whether it included that is answered for him in the document there.

Mr Quinlan: Yes.

MR HUMPHRIES: You asked me whether it was, and it is clearly there on the page. Mr Speaker, it would be quite extraordinary in any case if the document had been tabled without that adjustment being made. To repeat for Mr Quinlan's benefit, the surplus of which we talk is the surplus for the general government sector, not for the whole-of-government sector, which takes into account PTEs.

Mr Robbie Waterhouse

MR HUMPHRIES: Yesterday, I took on notice a question from Mr Rugendyke concerning Mr Robbie Waterhouse and his potential or possible application for a bookmaking licence in the ACT. I confirm my advice yesterday that Mr Waterhouse has not made application to the Gambling and Racing Commission for such a licence,

but further information has been provided, Mr Speaker, and I table that information. I present the following paper:

> Bookmaker's standing licence—Possible application by Mr Robbie Waterhouse—Answer to question without notice asked of Mr Humphries by Mr Rugendyke and taken on notice on 8 August 2001.

I ask that it be incorporated in *Hansard*.

Leave granted.

The paper read as follows:

> I was asked yesterday by Dave Rugendyke MLA, whether Mr Robbie Waterhouse, a former New South Wales bookmaker closely associated with the "Fine Cotton" substitution scandal of the early 1980's, has made application for a bookmaker's standing licence in the ACT. It is understood that the New South Wales Thoroughbred Racing Board (TRB), the controlling body for thoroughbred racing in that State, has recently granted Mr Waterhouse a Bookmaker's licence.
>
> I am advised by the ACT Gambling and Racing Commission that Mr Waterhouse has not made an application in the ACT.
>
> In the event that Mr Waterhouse or for that matter any other standing bookmaker who is licensed in another jurisdiction, were to apply for an ACT standing licence for thoroughbred racing, the procedure to be followed, in accordance with the provisions of the *Bookmakers Act* 1985 is outlined below.
>
> The bookmaker would first have to obtain a written authorisation from the ACT Racing Club. The Racing Club is the controlling body for thoroughbred racing in the ACT, pursuant to the *Racing Act* 1999. Under the Rules of Racing of the ACT Racing Club, a bookmaker is obliged under Local Rule 84, among other things, to "have the required guarantee provided to the ACTRC and the (ACT Gambling and Racing) Commission form the NSW Bookmakers Co-Operative Limited".
>
> Providing that the Registrar of Bookmakers has no reasonable grounds for believing that the applicant for a standing licence—
>
> • has been found guilty of an offence against the Bookmakers Act or regulations or against a corresponding law;
> • has, within the period of five years immediately preceding the date of the application, been found guilty in Australia of an offence punishable by imprisonment for 12 months or more; or
> • has failed to pay, in accordance with the Bookmakers Act, an amount due under that Act, the Registrar shall issue the standing licence.
>
> It is understood that the NSW Bookmakers Co-Operative Limited declined to furnish Mr Waterhouse with the required guarantee with respect to his licence application to the NSW TRB. The TRB**,** however, accepted another form of guarantee from Mr Waterhouse and then granted the licence.

It is considered unlikely that the NSW Bookmakers Co-Operative will change its position in the foreseeable future. Accordingly it not be possible for Mr Waterhouse to obtain the necessary authorisation from the ACT Racing Club, unless, of course, the ACT Racing Club amends its rules.

In the event that the ACT Racing Club sought to change a Local Rule that specifically relates to conditions under which bookmakers conduct business at the racecourse, it would be prudent for the ACT Racing Club to seek the views of the Gambling and Racing Commission before the rule was changed.

Significantly, however, the Legislative Assembly enacted the *Race and Sports Bookmaking Act 2001* on 19 June 2001.

The Race and Sports Bookmaking Act supersedes the Bookmakers Act and creates a new regulatory framework. It is anticipated that the Race and Sports Bookmaking Act will commence on 1 September 2001.

Under the provisions of the Race and Sports Bookmaking Act the requirement for an apptic8nt to obtain an authorisation from a racing club is removed. This measure was implemented in accordance with National Competition Policy protocols.

Applicants for a race bookmaker's licence must apply directly to the Gambling and Racing Commission. The application must contain or be accompanied by an authorisation, signed by the applicant, for a police officer to make inquiries and to make a written report to the Commission about the character and any criminal record of the applicant. And, further, the Commission must not decide the application until the Commission has received and considered the police report.

It is considered that these arrangements, which will soon come into effect, are much more appropriate than the current regulatory regime on the basis that there will be a higher standard of probity required of race bookmakers than that which currently prevails.

The Commission, which has statutory responsibilities with respect to the promotion and protection of consumer protection, the minimisation of criminal or unethical activity and, more importantly, reduction of the risks and cost to the community, will have significantly improved controls over the issuance and regulatory oversight of bookmakers' licences.

Personal explanations

MR QUINLAN: Mr Speaker, I seek leave to make a personal explanation.

MR SPEAKER: Please proceed.

MR QUINLAN: We just had an outburst by Mrs Burke about the words "condescending, bloody woman" recorded in *Hansard* against my name. She took it personally because she is half of the complement of women in this place. If you look at the relevant two pages of *Hansard* you will find that this happened when Mr Humphries was gratuitously advising us that we should not reveal details of public service contracts. If I mentioned anything about being condescending, it would have been to Mr Humphries in that mode, because there was a bit of byplay, as members will recall, yesterday. Let us open ourselves to the possibility that there has been a misprint. Just to

confirm that there might be a misprint, Mrs Burke herself was later asking me to withdraw the fact that I called Mr Humphries a bloody fool. It is on the same page.

Mrs Burke, I suggest to you that you be open to the fact that this may have been a misprint. There was no banter between you and me recorded in these two pages. There was banter between me and the Chief Minister, and you accused me of calling the Chief Minister a bloody fool. There is a big possibility that this is a misprint and that you have just been involved in a beat-up. I rather think you should pay more attention to what goes on in here.

Mr Rugendyke: Come on, children, we have got stuff on the blue. Come on, kiddies.

MR QUINLAN: Mr Speaker, with your indulgence, I will reply through you to Mr Rugendyke. This is a rather serious matter. Compared with some of the rubbish legislation that Mr Rugendyke has put up in this place over 3½ years, I rather think it should be addressed to completion.

Mr Speaker, I withdraw the fact that I withdrew that remark. I am certain that this is a misprint in the *Hansard*.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Speaker, on a personal explanation under standing order 46: if the remark "bloody woman" or "bloody man", whatever it was—

Mr Berry: Mr Speaker, whatever was said in relation to a woman has got nothing to do with Mr Humphries, as we can plainly tell.

MR HUMPHRIES: It has. He said it has.

MR SPEAKER: Look, can we just get this wretched thing settled? We have a great deal of work to do.

MR HUMPHRIES: Mr Quinlan cannot have it both ways. Either it was about me or it was about Mrs Burke. Who was it, Mr Quinlan?

Mr Quinlan: It could have been anybody across there, but I think it was about you. I am willing to be open to that probability.

MR HUMPHRIES: Then withdraw it as far as I am concerned, Mr Quinlan.

Mr Berry: He did.

MR HUMPHRIES: No, he did not. He withdrew his withdrawal.

Mr Quinlan: Is "bloody fool" unparliamentary?

Mr Moore: You need to be condemned for calling a male, a woman. It is a pejorative term. You are doing it in that sense.

Mr Quinlan: I rather think I did not use the word "woman"; that is the point.

Mr Humphries: What did you say, then?

Mr Stanhope: I might be able to clarify that, Mr Speaker. It is coming back to me slowly but surely. I think, in fact, Mr Quinlan was talking to me. I have some recollection now that he was talking about the esteem in which the Chief Minister was held within the community; he was talking about the esteem in which the community holds the Chief Minister. I said, "Surely not." He actually referred, I think, to the Chief Minister's rugged good looks.

Mr Moore: "Condescending, bloody woman" is what he said, and you should be condemning him.

Mr Stanhope: No, he did not.

Mr Moore: You should be condemning him for saying it. You are the spokesman for women's affairs.

Mr Stanhope: I think that it was reported that he said, "Bloody fool," but I have the recollection now that he might have said, "The ruddy jaw."

Mr Rugendyke: Mr Speaker, surely there is a standing order to which I can relate a point that suggests that we get on with what is on the daily program. This is childish and nonsense.

MR SPEAKER: Mr Rugendyke, I do wish that the people of the ACT could see some of these games that are played in this place.

Papers

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): For the information of members, I present the following papers:

> Land (Planning and Environment) Act, pursuant to section 29—Variation (No 138) to the Territory Plan relating to the Gungahlin Drive extension, together with background papers and a copy of the summaries and reports.
>
> General Agreement on Trade in Services (GATS) and World Trade Organisation (WTO)—Copies of papers produced that detail the development of the ACT Government position on the World Trade Organisation (WTO) and/or GATS in response to the Legislative Assembly's resolution of Wednesday, 20 June 2001.

I ask for leave to make two statements.

Leave granted.

MR SMYTH: Mr Speaker, variation No 138 to the Territory Plan concerns the proposed Gungahlin Drive extension. The Standing Committee on Planning and Urban Services tabled its report on this variation today. In that report—No 77, dated August 2001—the committee endorsed the variation on a 2:1 majority.

To enable the government to respond quickly to the committee's report, I asked Planning and Land Management to consider responses to a number of possible outcomes from the committee, given that this variation has been the subject of substantial public consultation and discussion over the last five years. In this regard, I would like to give the Assembly a potted history of the process.

In November 1997, following an extensive public information and consultation program and the release of the preliminary assessment for public comment in October 1997, the then Minister for the Environment, Land and Planning endorsed the recommendations of the PA and the associated valuation report. The recommended option was for a John Dedman Parkway corridor to the east of the Australian Institute of Sport, linking to Barry Drive in the south-east and to Caswell Drive in the west.

On 10 March 1999, I announced that a draft variation to the Territory Plan to reserve the preferred route would be prepared for release for public comment. Subsequently, on 21 April 1999, the Assembly passed a motion requiring the Standing Committee on Planning and Urban Services to inquire into the Gungahlin Drive extension. The committee called for public submissions in May 1999 and held public hearings from March to May 2000.

On 6 November 2000, the Chief Minister announced the government's preferred option for the future Gungahlin Drive extension excluded the link from east of the Australian Institute of Sport to Barry Drive. The committee's report tabled on 8 March 2001 focused on reviewing the need for and the identification of a preferred corridor for the future Gungahlin Drive extension from the Barton Highway to Belconnen Way at Caswell Drive. The majority of members of the committee supported an alignment for a Gungahlin Drive extension to the east and south of the Australian Institute of Sport.

Mr Speaker, draft variation to the Territory Plan No 138 was released for public comment on 17 May 2001, with the closing date for comments being 2 July 2001. In accordance with section 19 of the land act, notices were placed in the ACT government *Gazette* on 17 May 2001 and in the *Canberra Times* on 19 May 2001. In addition, a press statement advising the public availability of the draft variation was released by PALM on 19 May 2001.

The draft variation proposed to vary the Territory Plan by removing the "R" (subject to review) overlays, which indicate the various options for the future Gungahlin Drive extension, formerly known as the John Dedman Parkway alignment, deleting the hills, ridges and buffer areas community facility/municipal services land uses policies and replacing them with the major roads land use policy to identify the alignment which had been selected, and adjusting the public land overlay boundary to coincide with the proposed road reservation boundary. To retain the community precinct in Bruce, the draft variation also proposed to remove the major road land use policy from Leverrier Street and identify Braybrooke Street as a major road.

In total, 534 submissions were received in response to the draft variation. Of these, eight submissions supported the proposals; 483 were form letters or form emails opposing the route to the east of the Australian Institute of Sport, preferring a western alignment; and 23 of these form submissions included additional comments from a standard draft. The remaining 43 submissions opposing the eastern alignment included comments on many of the issues which the form letters and form emails addressed, but added a range of additional issues.

Following the public consultation process, the draft variation was revised. This involved deleting the intertown public transport route south of the Bruce athletics track and linking to Belconnen Way and Barry Drive between the O'Connor hills and Bruce Ridge, replacing the ITP alternative route near the Bruce athletics tracks to that part of the future Gungahlin Drive extension alignment east of Calvary Hospital, and removing the "R" (subject to review) overlay applying to the adjoining land between the Gungahlin Drive extensions road reserve and the Kaleen residential areas.

The time has come to make a decision and move forward. I now table variation No 138 to the Territory Plan, concerning the Gungahlin Drive extension.

I turn to the Legislative Assembly's resolution on the General Agreement on Trade in Services and the World Trade Organisation. The first part of the resolution requested the government to table documents that detail the development of the ACT government's position on GATS and the World Trade Organisation. I have tabled those documents, which show that the ACT government has not yet developed a formal position on GATS and/or the World Trade Organisation.

It is important to emphasise here that these are treaty matters coming under the external affairs power of the Commonwealth. The Commonwealth has committed itself to wide consultation on these issues and has established several consultative mechanisms to provide an opportunity for state and territory governments, non-government organisations and members of the community to provide input to Australia's trade position. These mechanisms include regular public consultations, inquiries into Australia's trade position managed by the Department of Foreign Affairs and Trade, and establishing a World Trade Organisation advisory group with representatives from the business, non-government, academic and union sectors.

The options for ACT government participation include the national trade consultations and input to relevant inquiries conducted by the Joint Standing Committee on Treaties. The latter is in the final point of intergovernment consultation prior to Australia's ratification of any international agreement.

The ACT government acknowledges that some people have concerns with GATS and will take these issues into consideration when developing a position for input to the consultative process. While the ACT government has not developed a formal position on GATS, it has been generally supportive of the federal government's approach to continuing the process of trade liberalisation. In the case of GATS, the benefits to the ACT community are expected to be very positive.

By removing the trade barriers to international trade in services, GATS will give the ACT more opportunities to export services. Last year alone, services exported from the ACT totalled approximately $688 million, compared with merchandise exports of around $28 million. GATS will benefit the ACT through increased service exports, with resulting increases in employment and investment in service industries.

As for concerns about the possible effects of GATS on matters of sovereignty, both the Minister for Trade, Mr Mark Vaile, and the Department of Foreign Affairs and Trade have stated that the agreement does not apply to services supplied in the exercise of government authority. Parties have the flexibility to determine what sectors they want to be covered by the agreement and what restrictions on foreign supplies they want to retain. Whilst I recognise that not all commentators share this view, on the balance of evidence there is an insufficient basis not to accept this view.

I understand that Australia has made only very minor commitments to liberalised trade in the fields of health care and education. I am advised that those commitments will not impact on the provision of public services in these and other important areas of public service provision. There is therefore no threat from this agreement to the sovereignty of Australia, or of the ACT, in providing services to the public.

I would like the Assembly to note that parts (2) and (3) of the resolution passed by the Assembly require the government to undertake an independent evaluation and a full community consultation process. The process of planning, conducting, assessing and reporting on the possible impact of GATS on the ACT, of consulting fully with the public, of receiving comprehensive briefings from the Commonwealth, of obtaining detailed legal opinion on matters of international law, and of arriving at a position based on an independent assessment and public consultation is simply not feasible in the seven-week timeframe set by the Assembly.

Furthermore, it would not be possible to complete this process before the start of the caretaker period on 14 September 2001. Such a complex examination of international law, including a reasonable opportunity for informed public comment, plus the development of an ACT government position, would take at least three or four months to complete. A shorter exercise would not serve any useful purpose. Therefore, the government has agreed that the development of an ACT position, including public consultation, will be an issue to be raised with the incoming government after the October election.

With regard to the final part of the Assembly's resolution, I can advise that I have written to the Commonwealth Minister for Trade, Mr Vaile, relaying the Assembly's request that the federal government conduct a broad inquiry into the impact of GATS and the World Trade Organisation.

The process of trade liberalisation has been in train since the end of World War II and has been enormously beneficial in lifting national standards of living around the world. The more recent extension of this liberalisation process to include service industries has the potential to bring further economic benefits to the world economy, including to Australia. As a service-oriented regional economy, the ACT stands to benefit greatly from this process of further liberalisation.

I hear concerns expressed by some that this process will in some way undermine the freedom of governments to provide basic services in the way that best serves the public interest. However, as I have stated, on the balance of evidence, this fear is unjustified. Nevertheless, the government has heard the Assembly's concerns and will ensure that the issue is brought to the attention of the incoming government after the October election.

MS TUCKER: I seek leave to respond to Mr Smyth's statement on GATS.

Leave granted.

MS TUCKER: I want to put my position on the record now because I may not have another opportunity to do so—I note that Mr Moore did something similar this morning—as we are running out of time. I was hoping to have a volume of analysis and argument to go through. It would have been impossible for me to respond to a detailed response from the government on this very important issue; but, as the response is of only a few pages and most of it is about motherhood statements, I want to put on the record that it is a totally inadequate response to a very complex issue which, arguably, is going to have very significant impacts on local governments in developed and developing countries all round the world.

Where governments have taken the trouble to look at the issue in detail and provide some kind of thoughtful analysis, as happened in some of the provinces of Canada, British Columbia in particular, we can see that this issue is not as simple as the Liberal government here paints it. Clearly, this is about as good as we ever got from Mrs Carnell. We have very broad statements about liberalised trade being good for everybody and very little more. It has been said that we will be able to export our services. No analysis has been conducted of what it means for our ability to set standards for our own service provision capacity as they may be portrayed as barriers to trade by world trade rules.

What will be the impact of world trade rules on our ability to govern with the interests of our local community in mind? The response is absolutely pathetic and just supports the points I made when I asked for a response that this government does not care and has not done the work.

MR MOORE (Minister for Health, Housing and Community Services): I seek leave to make a very brief statement

Leave granted.

MR MOORE: I am flabbergasted by the Greens' attitude to this matter. It is quite clear that what has happened is that they have been conned and caught up in the hype and the misinformation put out in the US, particularly by the teamsters union, which is busily protecting the jobs of its own workers. You can understand that coming from them, but I would have thought that the Greens, who like to take a global view of things, would recognise that the protection of those jobs in the US and Canada is at the price of incredible grinding poverty in the Third World. It is time you looked at that, Ms Tucker.

GMC400 Canberra—8-10 June 2001—key results
Paper and statement by minister

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.00): For the information of members, I present the following paper:

> GMC 400 Canberra, 8-10 June 2001—Key results, prepared by Canberra Tourism & Events Corporation, dated August 2001.

I ask for leave to make a statement.

Leave granted.

MR SMYTH: The GMC400 is round five of the Shell championship series for V8 supercars, held annually in Canberra on the June long weekend. In October 1999, the ACT Legislative Assembly voted to bring the event to the nation's capital and appropriated $4.5 million for capital works and $2.5 million for recurrent expenditure over five years to operate the event. The Canberra Tourism and Events Corporation was given the responsibility of delivering the GMC400. Plans were approved by the National Capital Authority and the federal government, and the inaugural event took place from 9 to 11 June 2000.

The inaugural GMC400 was a great success. Much was learned from staging the first event and various track improvements were considered necessary to enhance spectator enjoyment and to provide a safer, smoother circuit for drivers. The government approved additional funds of $1.5 million per year to improve the event infrastructure and to meet standards set by the approval authorities. As a result, annual ACT government investment in the GMC400 is $4 million per year.

Over the five-year commitment to the event, the ACT government has allocated a total budget of $23 million. In addition, the event raises revenue from sponsorship, corporate sales, licensing of on-site vendors, and ticket sales. The GMC400 generates significant economic benefits for Canberra and the surrounding region. Looking at the two-year average for the event, we can say that the economic benefit will be in the order of $60 million over five years.

Key results of the GMC400 in 2000 and 2001 indicate that the GMC400 is a valuable addition to the mix of activities that attract tourists to Canberra, and it adds diversity to a calendar of events for the local community. To evaluate the GMC400, CTEC commissioned independent reports from the Centre for Tourism Research, Sponsorship Information Services, International Management Group and Ticketek. These reports contain the key results I am tabling today. Also, the answer to Mr Kaine's question on notice can be found on page 5 of the document *GMC400, Key Results*. These figures have only just been compiled.

Attendance at this year's event was 101,000 people, down from 109,000 in the first year of the event. As for the 2000 attendance, this figure counts everyone who attended the event—spectators, corporates, sponsors, children and accredited pass holders, such as officials, media, teams, volunteers and emergency services. Mr Deputy Speaker, 34.1 per

cent, or 34,441 attendances, came from interstate, compared with 30 per cent, or 32,700 attendances, at last year's GMC400. This estimate comes from independent research by Taylor Nelson Sofres last year and the Centre for Tourism Research this year, essentially using the same methodology. The largest interstate markets for the GMC400 in 2001 were regional New South Wales, followed by Sydney, then Victoria. The attendance figures again showed that Canberra can draw substantial numbers to a major tourism event.

Mr Moore: Even though it was raining.

MR SMYTH: Even though it was raining, as Mr Moore points out. Turning to ticket sales, at this year's GMC400 people could buy four different passes: one-day or three-day tickets for either grandstand or general admission viewing, V8 paddock passes or corporate attendance. As for all outdoor events, the gate can vary from year to year according to factors such as the weather.

Sales for the one-day tickets were 26,977 this year, against 46,182 last year. For three-day tickets they were 12,105 this year, against 12,358 last year. The total for this year was 39,082, against 58,540 last year. A decrease in the Saturday attendance and a drop of over 6,000 in V8 paddock passes contributed to the reduction in ticket sales. Other factors were changes in the one-day ticket and paddock pass prices and, of course, the option of watching the event live on television. Unlike last year's GMC400, we will all recall that Canberra had several days of rain before and during the event this year. Support races on the Sunday program were delayed because of the onset of a fog that did not lift until 11 am. Spectator arrivals and walk-up ticket sales were quiet until the fog dispersed.

The GMC400 again contributed to the high occupancy levels in our accommodation sector over the June long weekend, a weekend that is traditionally very weak. According to the Canberra Visitors Centre, which makes local accommodation bookings, there was limited accommodation remaining for people over the June long weekend. The Centre for Tourism Research's evaluation found that 47.6 per cent of overnight visitors to Canberra who attended the event stayed in commercial accommodation, including hotels, motels, serviced apartments and caravan parks.

The visitors to the GMC400 also patronised restaurants, bars, cafes and attractions while in Canberra. The report from the Centre for Tourism Research shows that visitors undertook a mix of activities. For instance, 8.4 per cent of spectators visited Parliament House; 13.8 per cent of visitors attended cultural attractions such as museums and galleries; 3 per cent visited nature-based attractions; 40.7 per cent visited nightclubs or bars; 44.3 per cent visited restaurants; and 22.2 per cent undertook other activities in Canberra. Members should note that the figures exceed 100 per cent as the people surveyed took part in a combination of activities whilst they were here.

The *Canberra Times* of Tuesday, 6 June, reported in a similar way, saying, "High visitor numbers have thrilled Canberra's tourist attraction operators, with the National Gallery and Old Parliament House claiming the GMC400 car race helped boost attendances." A combination of the GMC400 and the closing days of the Monet and Japan exhibition at the National Gallery made a very positive impact on the tourism sector over the June long weekend.

The GMC400 was a well-managed and safe event. An integrated approach to safety planning was adopted from the start, building on last year's experiences. The safety committee included relevant staff from the Australian Federal Police, ACT Emergency Services, ACT WorkCover, the ACT department of health, St John Ambulance and coordinators of the event. The event has a working plan for emergency response that can be modified each year to comply with any future changes in layout or procedures. The AFP and ACT Emergency Services provided tremendous support for the event, and we thank them for working with all the stakeholders to ensure its success.

Converting the streets of the Parliamentary Triangle into a circuit for the GMC400 introduced temporary disruption to traffic. This year, event organisers worked with the Australian Federal Police and the Department of Urban Services to minimise inconvenience to motorists. Learning from year one, a detailed communications plan was implemented and, with outstanding support from Canberra's media, information about road closures and alternative arrangements was publicised well in advance of the event.

The park and ride services offered by ACTION buses received a high approval rating from spectators who made the decision to leave their cars at home. Although some concerns were expressed about the potential for such events to encourage speeding on our roads, police reported that there were no noticeable increases in traffic offences over the June long weekend. Locally let contracts were worth over $2.7 million, and included the laying of race kerbing, transportation of equipment, provision of security, civil works and portable building hire.

Turning to the promotion of the national capital, the GMC400 was telecast throughout Australia and New Zealand. It featured on TV magazine programs such as *RPM* and *Trackside* and was replayed on Fox Sports. In New Zealand, the race was shown on TV One. Excellent shots of the national capital, including aerial shots of the Parliamentary Triangle, were used liberally throughout the telecasts, highlighting many of the major attractions. Race commentary positively promoted Canberra and the special unique location of the event throughout the telecast.

The GMC400 engaged an overall audience of 28.2 million people. Dedicated race day coverage attracted over 1.9 million viewers, while almost 24 million people watched news items about the event. TV magazine programs featuring the GMC400 amassed an audience of 2.6 million people. The media coverage was extensive and the overall publicity value was conservatively estimated by Sponsorship Information Services at over $1.2 million.

In terms of financial performance, the GMC400 has been professionally managed. Expenditure in 2001 was well under budget. Revenue in 2001 was reduced, due to a drop in ticket sales. As I have said, ticket sales for these sorts of events are easily affected by weather and market forces. The preliminary results, yet to be audited, indicate that there was an operating loss of some $1.45 million. The expected cash result for the event is a shortfall of $1.17 million, which excludes depreciation and in kind contra. CTEC has advised that the event does not expect to require funding other than the amount already allocated by the ACT government for the next three years. The five-year budget for the event has made some allowances for potential variations.

The GMC400 in 2001 produced an economic benefit of over $11.2 million for the ACT community. Last year's economic benefit was estimated at $13.2 million. Spectators, volunteers, officials and teams spent an estimated $5.4 million while in the ACT for the event. Local visitor expenditure was estimated to be $3.1 million for 2001. Locally let contracts were worth over $2.7 million. Mr Deputy Speaker, $11.2 million is a good result. If the GMC400 were not held in Canberra, the economic benefit would be lost.

The average economic impact over the last two years is $12.2 million and, based on that figure, we can estimate that the GMC400 will generate an economic benefit for the ACT of some $60 million over the five years of the event. The economic benefit figures are derived from independent evaluation of interstate expenditures by the Centre for Tourism Research and CTEC's records of local expenditure and locally let contracts.

The main factors identified by spectators that influence their decision to attend the GMC400 are atmosphere and enjoyment, and live action and entertainment. Independent evaluation has shown that spectator approval has increased, with 89 per cent of the spectators to this year's GMC400 rating the event as either good or very good, as opposed to 80 per cent in 2000. The results of evaluation reports are now being considered in a series of debriefs and planning for the next event. These debriefs involve CTEC consulting the stakeholders involved with the GMC400, such as AVESCO, Emergency Services and the International Management Group, as well as the participating teams. Areas for finetuning in year three include ticket pricing, spectator facilities and adjustments to the marketing.

In summary, let us remember why we staged the GMC400. The main reason was to increase visitation to the ACT during the slower winter months. Despite a decline in attendance, the GMC400 is clearly achieving this objective: 34 per cent of the crowd were from interstate and they spent $5.4 million in the ACT. We are also promoting the national capital through media publicity worth some $1.2 million, as well as the first-hand experiences of people who come here and have a great time.

The GMC400 is a five-year commitment. Looking at other motor sports events, we know that attendances and revenues will fluctuate as the event matures. We also know that we have a good event. It is unique, it is popular and it has industry support. The government is committed to this event. It brings new dollars into the economy, it stimulates tourism and it promotes year-round visitation. I commend the report to the Assembly. I move:

> That the Assembly takes note of the paper.

MR BERRY (4.07): When this matter first came before the Assembly, the Labor Party joined the government in supporting the event. At the time, we expressed reservations about the ability of the government to run this event and we have done so over and over again since, lest anybody should misunderstand our position. We wanted this event to succeed. It was an event that had potential for the ACT. We were promised that the business case put to us was a business case that would deliver the outputs that were predicted. Over and over, we were promised that that would occur.

We know from the travel records of this place that the then Chief Minister's office was deeply involved in the event, as staff from her office travelled to South Australia to gather information in relation to the matter. This government decision was predicted to

be the pot of gold at the end of the rainbow for the ACT. That sounds a bit like the Bruce Stadium redevelopment, really, doesn't it?

Mr Humphries: Or VITAB.

MR BERRY: Mr Humphries interjects. I have been through two inquiries and come out unscathed, but the government cannot say that about itself. I bet you would swap all your disasters for a VITAB any day.

MR DEPUTY SPEAKER: Order! The GMC400 is the matter under discussion.

MR BERRY: This event is falling apart at the seams, like the Bruce Stadium redevelopment, regrettably. Mr Deputy Speaker, if you look at the financial performance of this event, you will find that the operating loss of $1.45 million was due to a fall in ticket sales. There was a massive fall in total ticket sales—down from 58,540 to 39,082. This could not have been unexpected, because experts tell me—

Mr Smyth: It rained.

MR BERRY: It rained! I watched the event on television and I was there on the Friday. Rain was not the issue. The experts know that the second and outyears—

Mr Smyth: You are an expert.

MR BERRY: No, this is what they told me. The experts told me that the outyears were always going to be harder going, but the numbers were not built into the business case. The government was conned, again. There was an operating loss of $1.45 million this year. Similar results in the outyears will mean in the end that the fifth year will be at risk if no further funds are put into this event. CTEC is saying that it can find funds somewhere else. Perhaps it can find them from the Floriade. Perhaps we will knock off the Floriade every second year so that we can fund the V8 car race. Is that your plan? That is the only outcome that will result from this loss. CTEC will have to cut something else to pay for the V8 car race.

Mr Smyth: What would you do?

MR BERRY: Mr Smyth, I am glad to say, interjects. We would not have got ourselves into this mess, Mr Smyth, and we would not have wasted the $100 million which your lot have wasted and which could be of benefit to our schools and troubled hospitals, instead of being wasted on things such as the Bruce Stadium—

MR DEPUTY SPEAKER: Order, Mr Berry! The report is under discussion, not anything else. Let us keep to the report.

MR BERRY: Mr Deputy Speaker, that is the difference between us and them. We do not just throw other people's money at issues like this lot have done.

MR DEPUTY SPEAKER: Speak to the report, please.

MR BERRY: Mr Deputy Speaker, I am troubled by this report. I have seen all the economic benefit figures which have been put into the report. No doubt, the government will want to emphasise those figures, rather than looking at the performance of the event. I would be embarrassed about it, too. It would be a matter of some extreme embarrassment to me to have a situation like that confronting a Labor government, but by now the Liberals would have been hardened to that because they have had so many of them.

MR DEPUTY SPEAKER: Mr Berry, speak to the report, please.

MR BERRY: They have had so many of them that they need your protection, Mr Deputy Speaker. But somebody as tough and resilient as you are cannot protect this lot from all of the mistakes that they have made in the past.

We are angry because we were conned into supporting this event. The chickens started to come home to roost when we were called upon to put an extra $1.5 million each year into the event as it started to come apart at the seams because the government had not properly estimated expenditure on the event. We also discovered that somewhere between zero and $1.4 million out of the administrative expenses goes in a hidden payment to AVESCO. We have never discovered how much money they get. How on earth can you call yourself open and accountable when these chunks of money are hidden away? Every time we have this event it costs us more money—$1.5 million a year, another $4.5 million over the life of the event. What can the Assembly do when you come back and say that you have to have the extra money or AVESCO will walk away from it? I will guarantee that penalty payments for early termination are built in there somewhere. I would like to know what they will be, as well, when we cannot afford to have this event in the fifth year.

Of course, you will be saying to yourself, "We are not going to talk about the fifth year now, because we are going to an election. We do not want to hear a word said about that," but you will have to hear about it. CTEC have said that they are going to manage this event within budget. If they are going to manage it within budget, where will the money come from? I predict that it will come out in the fifth year with the payment of penalties when you cut off the fifth year of the race or it will come out of some other area of CTEC's operations, say, Floriade.

Mr Humphries: What are you going to do about it?

MR BERRY: We will be busy cleaning up the mess and lamenting the fact that we would have been $100 million better off if it were not for disasters like this one; that is what we will be doing. You could never hide the disgraceful waste of money that you have been involved in during your period in office. The instances just keep ringing in our ears—Bruce Stadium, Hall/Kinlyside.

MR DEPUTY SPEAKER: Come back to the report, please, Mr Berry.

MR BERRY: Mr Deputy Speaker, this is about the report.

Mr Smyth: I take a point of order. The only reason it rings in Mr Berry's ear is that the vessel is empty; so, if it is hollow, it has room to reverberate.

MR DEPUTY SPEAKER: There is no point of order. Let us carry on.

MR BERRY: Indeed, Mr Deputy Speaker, it is about this report and it is about a style of management which has given us these results. The reason I raise those other unfortunate events is that they are exemplars of this government's performance on a wide range of issues. Fortuitously, they were able to get an extra $250 million from the Commonwealth government in the course of their period in office and they are claiming credit for it in terms of their bottom line, but we would have been $100 million better off—

MR DEPUTY SPEAKER: I have heard about that, Mr Berry; let us hear about the report.

MR BERRY: I am just trying to make the point. I think a couple over there might have missed it.

MR DEPUTY SPEAKER: Come on, Mr Berry.

MR BERRY: Mr Deputy Speaker, I hesitate to repeat the figure because of the ire I might raise with you in the chair. It is impossible to look at this report without reflecting on the past. It is impossible to look at this report without reflecting on what is going to happen in the future and how future governments will have to cope with the high expenditure that will result and the cost in some other area of CTEC's operations without another infusion of cash from the ACT budget. There will be a problem with the fifth year if this race does not get more money; that is pretty obvious. We will run out of money for the fifth year of the event. It is going to cost us, I think, about $4 million a year. When we get to the fifth year, the cash is just not going to be there.

Some other government will have to sweep up this mess. If no additional money is put into this event, CTEC will have to take money from somewhere. It will have to take it from its advertising budgets, its promotion budgets and other areas, which will certainly cost jobs in CTEC to try to fund this shortfall. It will also, I think, draw Floriade into focus. What will happen to Floriade? Will CTEC be attracted to the idea of having Floriade only every second year? I can sense that recommendation coming, because the cash has to come from somewhere.

Every time members of this government get their fingerprints on an issue which, on the face of it, looks like some aspect of bread and circuses and they consider that they are going to be able to impress the community with the can-do approach to government that they have fostered since they came to this place, we end up with a mess. It started with the style of government which gave us the hospital implosion, which I have not mentioned before, and flowed on to others which I have mentioned before and which, because of your insistence, I will not repeat, Mr Deputy Speaker.

I am sure that more will come out of this as we get a chance to examine the figures more closely. Let us go again to ticket sales. One-day tickets went down from 46,182 to 26,000. Anybody could predict that they would fall, because the novelty effect of the event for the local community would drop off. Everybody would know that. Even I could guess that. Three-day ticket sales only fell slightly. They held pretty well. They were a couple of hundred down. Nobody would be that disturbed about the three-day tickets,

although there was a fall. You would certainly want the sales of them to be on an increase.

But the total for tickets sold went down from 58,540 to 39,082. Transposed into the effect on the finances of the event, the GMC400 was down $1.45 million. The minister tells us in his tabling statement that CTEC has advised that the event does not expect to require funding other than the amount already allocated by the ACT government for the next three years and that the five-year budget for the event has made some allowances for potential variations. If the five-year budget allowed for some potential variations, I do not know why we have been asked for an extra $1.5 million a year. That strikes me as a little bit odd. It has some allowances for potential variations of about $1.4 million a year, we can do that now, so do we get the $1.5 million back?

Mr Deputy Speaker, this is a classic statement. What has happened is that CTEC has gone to the government and said that it is in strife with the V8 car race as the numbers are not stacking up too well, people have given it the flick this year, and the government has said, "You are not going to get any money. Don't ask us for money. We cannot afford any more blowouts, we would be in deep and serious trouble, so hide it somehow." The best CTEC could come up with was to bury it in the outyears. You cannot bury that much money for this event.

Mr Hird: You are judging everyone else by yourself, Wayne.

MR BERRY: It is on paper, Mr Hird. Your statement says that CTEC has advised that the event does not expect to require funding other than the amount already allocated by the ACT government for the next three years. Gee, I wish they had said that when they asked for the $1.5 million extra a year, as we might have said that they do not need it. Indeed, all of a sudden a slush fund has emerged that is going to cover it. I do not believe that. I want to know what the escape clause is going to cost for every year between now and the fifth year. What are the penalties for the escape clause, which is going to be a significant expenditure by any government when CTEC cannot afford to pay for the fifth year? When we know that, we will have to weigh up where the money is going to come from in CTEC. Somebody will have to make up their mind about what is going to be cut in CTEC, because there will have to be cuts somewhere. Which part of their operations are they going to give the flick? Are they going to get stuck into Floriade? How many people are they going to sack?

Those are issues that we will have to face because this government totally underestimated the well-known effects of the outyears for these events. Why were they not taken into account? Why were they not in the business case? Where did the advice come from? How much do we pay AVESCO? Why won't AVESCO tell us that? Those are all issues that we have to better understand on this event.

MR DEPUTY SPEAKER: Order! Your time has expired, Mr Berry.

MR HIRD (4.23): I will be very brief, Mr Deputy Speaker. I could not resist following Mr Berry after he spoke of a disgraceful waste of money. That could have been said in respect of the $344 million debt that we took over in 1995. Harcourt Hill came on top of that. The fact is that at the time of the GMC400—the quietest time of the year; the Queen's birthday long weekend—you could not get any accommodation not just in the

ACT or Queanbeyan, but throughout the region, creating jobs and resulting in money being spent in the hospitality industry.

I listened very carefully to Mr Berry, as I always do, and heard him say that we might have job losses, that we might have mass sackings, to do with Floriade. What about the hospitality industry if the Labor Party does what Mr Berry says it will do when it gets on the treasury bench? That would mean that we would lose jobs, jobs and more jobs in the hospitality industry? The effect would be felt not only by the ACT, but also by the region, it would have disastrous outcomes, yet the people opposite aid and abet the downgrading of something which puts Canberra on the international map, not just the national map, which makes Canberra come alive and which takes away the stigma of Canberra being a political vacuum.

Canberra has 311,000 people. A number of those people have jobs in the hospitality industry, which relies on the staging of this type of event. I think the minister and the National Capital Authority are to be congratulated for getting behind such a great project at a time when we find ourselves at a lower ebb, being the Queen's birthday long weekend. Their stimulation has created jobs within the hospitality industry, and I think that they can be proud of themselves for doing that.

MR KAINE (4.25): We have been waiting for this report for so long and, as far as I am concerned, it has turned out to be a bit of a fizzer. It is only a bit of a PR exercise that says what a wonderful job we did. There has been an assertion by one side that there has been a waste of money and the other side has said that there has not been a waste of money, that it has all been well spent. How do we know? This is not a set of accounts showing an income and expenditure statement; it is just an assertion of a few statements which may or may not be factual. Interestingly enough, although it was only yesterday that the Chief Minister said that the government could not put the figures on the table before then because they were not audited and that we would not want unaudited figures, this statement says that preliminary results, yet to be audited, indicate that there was an operating loss of $1.45 million.

Mr Smyth: I take a point of order, Mr Deputy Speaker. I clarified that they were not to be the audited figures. That was the information I gave to the Chief Minister. Mr Kaine would have heard that.

MR DEPUTY SPEAKER: That is not a point of order, Mr Smyth.

MR KAINE: Mr Deputy Speaker, I am concerned that, whilst there are all sorts of grandiose claims in this document about the result of this event, there is nothing in it which actually demonstrates that we either made or lost anything. That, I think, is the big problem. The government has committed $23 million to this project over five years and cannot produce a set of books which show what we spent and what we got back, so that we can actually see from a factual set of audited accounts whether there has been a profit or a loss. That does not relate only to this year. It relates to the cumulative effect of last year and this year, and is going to be a cumulative effect through for the next three years as well.

You can make all the claims you want about the event being an outstanding success and all the other claims that were made in here, but what we are looking for in terms of being accountable for public money is the proof of that. I think that what has been delivered falls far short of what the government claimed and far short of what we as responsible representatives of the community would expect. I would be looking for some sort of income and expenditure statement so we can verify what was received and what was spent. That should include payments to AVESCO. That is simply one of the costs of mounting this event. There is no excuse whatsoever for the government to claim that this information is commercial-in-confidence. How can it be commercial-in-confidence? The government is spending public money and the people are entitled to know where that money is going so that they, as well as we, can make a judgment about whether they are getting a fair return for it. This is a typical case of the government hiding behind the commercial-in-confidence label, which is totally unjustified.

Mr Deputy Speaker, the only other thing that I want to comment upon is the attendance figures. We have been told what the attendance figures were purported to be, but I have found on short inspection that they do not add up. This minister's statement tells us that, in round figures, 12,000 three-day tickets were sold. On page 4 of the report, there are statistics about who attended. On no day of the three did more than about 6,500 three-day ticket holders attend. Is the minister telling us that 3,500 people bought three-day tickets and did not attend on any day? How much did they pay for them, and did they just throw their money away? I do not believe that. So the question is: how many three-day tickets did they sell? Was it 12,000 or was it of the order of 6,000 to 6,500, which is what the daily attendances on each of the three days would indicate?

That raises questions in my mind about just how rubbery these figures are. It was claimed that there was a total daily attendance of 101,000 approximately. Just how good are those figures? It has been claimed that there was a minor drop from last year. I suspect that the figures have been well and truly worked over before they have been presented to us. If the rest of the financial information in this document is as rubbery as the claims about selling tickets, then the government has a lot of work to do yet to convince me, and I hope the rest of the people in this place, that the outcome is as it now presents it to be. It is very dubious, in my view.

Question resolved in the affirmative.

Justice and Community Safety—Standing Committee
Report No 14 of 2001—government response

MR STEFANIAK (Minister for Education and Attorney-General) (4.31): I present the following paper:

> Justice and Community Safety—Standing Committee—Report No 14—The Defamation Bill 1999 *(presented 1 May 2001)*—Government response.

I move:

> That the Assembly takes note of the paper.

Mr Deputy Speaker, ACT defamation law is unwell. Of all our laws that have a malaise, it exists in its own special character. Let us consider our patient here. Our defamation law consists of judge-made common law as modified by two inherited New South Wales acts which are very old. The first is the Defamation Act 1901 of New South Wales. It supposedly provides a basic structure for civil and criminal actions in the ACT. The second one is the Defamation (Amendment) Act of 1909 of New South Wales. It supposedly provides for certain statutory defences to a civil or criminal action for defamation.

The patient has not only passed its use-by date, it is decrepit. The old laws contain rules that are only applicable to words spoken before 21 August 1847. They provide that an aggrieved person may seize and sell presses used in printing the defamatory article. They have been repealed in New South Wales for many years. They should be repealed here as well.

From a safe distance the existing law might appear to offer a person wronged the possibility of an eventual award of damages. But this is not borne out in the experiences of those who have been caught up in defamation proceedings. For example:

- in the amazing Abbott and Costello defamation case the subsequent press reporting of the proceedings arguably did far more harm to those involved in the proceedings than the original publication. In that case the reformed law, as proposed by the government, would have afforded a swift means of redress.
- a significant number of cases stall at the pre-trial stage because one or other of the parties cannot continue because of lack of funds.
- analysis of procedural steps taken in defamation cases by the ACT Law Reform Commission showed that defamation practitioners failed to meet almost all of the time deadlines for undertaking steps, some of them by significant periods of time. Delay is a significant contributor to cost.

The present law places far too much emphasis on monetary damages than on timely correction. Often, by the time damages are awarded, the context in which alleged defamatory remarks were made has long since passed.

The government's bill addresses many of the problems with the existing law. In fact, the proposed law would offer tangible relief to a party at a very early stage, before the need to engage solicitors or commence actions. It also consolidates the existing law and removes unnecessary or defunct provisions. It contains detailed provisions protecting the use of specified material.

However, there were three matters where it was clear there was no consensus. The government referred these three matters to the Standing Committee on Justice and Community Safety for its consideration. While these three matters raised issues of genuine interest, the committee itself only attracted those who had made submissions to the government previously and who, with one notable exception, simply restated the positions they had previously taken.

The notable exception was Crispin Hull. While the government does not always see eye to eye with Mr Hull, his continuing contribution to reform in this area is undoubted. Like the committee, the government has been persuaded by his expertise in this area and his balanced and erudite analysis.

In relation to the defence of truth, the government has been persuaded to change its position. It will withdraw provisions designed to return the ACT to the common law position where truth alone is a defence.

The committee adopted a number of objections to the government's bill concerned about the technical complexity of the provision. Nevertheless, it appears that a consensus has started to emerge which will lead to a simplification of the law and yet allow us to achieve sound policy objectives. The government will bring forward amendments to give effect to this consensus.

The committee opposed the government's proposal to provide a clear and real benefit to defendants using the amends option, rather than, as present, fighting claims to a stalemate. However, the committee commended a counter proposal made by Mr Hull. Mr Hull proposed that the provisions in the bill dealing with an offer of amends might differentiate between imputations asserting criminal conduct and lesser imputations. The government will bring forward amendments to give effect to this proposal, and commends Mr Hull for his proposal.

Reform of defamation law has been promised since the very beginning of self-government. It is now within reach. The government looks forward to a constructive debate on the bill.

Question resolved in the affirmative.

Suspension of standing and temporary orders—consideration of Assembly business

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

> That so much of the standing and temporary orders be suspended as would prevent Assembly business Order of the Day relating to the Standing Committee on Planning and Urban Services Report No 77 concerning Draft Variation to the Territory Plan No 138 Gungahlin Drive Extension being called on forthwith.

Planning and Urban Services—Standing Committee
Report No 77

Debate resumed.

MR CORBELL (4.37): This report, endorsed by a majority of the Planning and Urban Services Committee today, is, to put it in one word, a disgrace. It is a disgrace for a number of reasons, Mr Deputy Speaker. It is a disgrace because the members of the committee failed to uphold their responsibilities to properly conduct an inquiry into the formal variation as presented to it under the land act by the Minister for Urban Services. It is a disgrace because it fails in any substantive way to deal with the issues raised in the

draft variation, and it is a disgrace for the way that the majority of the committee conducted itself in processing the variation.

I think this can be very clearly demonstrated, Mr Deputy Speaker, by comparing the two reports which the Planning and Urban Services Committee has presented today. I draw members attention to report No 78 of the Planning and Urban Services Committee which follows the normal format of the committee in relation to planning matters. I simply draw attention, at a superficial level, to three points raised in report No 78. The report outlines, as the committee usually does, firstly, the issue, secondly, what the committee did, thirdly, what the committee heard, and fourthly, the committee's conclusion.

In the case of the Gungahlin Drive extension, there is no such reference to what the committee did or what the committee heard. There are very good reasons why that is not in the majority committee's report, Mr Deputy Speaker. It is not there because, in respect to the second point, what the committee did, the committee rushed it through and the committee heard nothing. It is an interesting contrast in the way the committee has chosen to conduct itself on this occasion.

Quite frankly, Mr Hird and Mr Rugendyke should resign as members of that committee. They should resign because they have abrogated their responsibilities. They met as a committee of two in my absence last week and decided they were going to push this through. On another occasion earlier this week, Mr Deputy Speaker, when I formally moved that the committee should at least call public submissions on this matter, they defeated the motion. When I requested more than a 24-hour period to prepare a dissenting report, they moved formally to ensure that I did not have such an opportunity. That, Mr Deputy Speaker, is the sign of a desperate government, and a desperate conservative Independent and a desperate Liberal member.

Mr Hird and Mr Rugendyke have said in relation to this report that they have heard everything there is to hear on this matter. They know what all the issues are and they know what to do. In fact, Mr Hird and Mr Rugendyke love taking the gung-ho approach. If they could get behind the handles of the bulldozer, I am sure they would take the opportunity, Mr Deputy Speaker, but that is not what they are elected to this place to do. What they are elected to this place to do is to make an informed, reasonable, rational, considered decision.

Mr Rugendyke: And that happened.

MR CORBELL: That is not what has happened, Mr Deputy Speaker. I challenge Mr Hird and I challenge Mr Rugendyke to explain to me how they can know what the views of the community were on this draft variation when they did not call public submissions on it. I challenge them to tell me what amazing mindreading powers they have that they can demonstrate to me that they know what the issues are in relation to this draft variation without even calling for public comment. What happened, Mr Hird, and what happened, Mr Rugendyke, to the convention that on controversial draft variations the committee always calls for public submissions? What happened on this occasion?

Mr Humphries: What convention?

MR CORBELL: Mr Humphries may not be aware of it—he is not on the committee—but Mr Hird and Mr Rugendyke know there is an agreement in our committee that in relation to any controversial draft variation you call for public comment. They know that. Perhaps that is the reason why Mr Hird has left the chamber, Mr Deputy Speaker.

Mr Smyth: Ah, a cheap shot. Cheap like you.

MR CORBELL: The only people being cheap in this debate are the government opposite, because they are afraid of having the issues properly aired.

I would have had no difficulty if a majority of the committee had resolved to present a report after having called for public submissions and looked at what those submissions said. If, as a result of calling for public submissions, it became clear that there were no new issues being raised, no new points of concern being raised, or points of concern being raised by members of the community who have not previously commented on this matter, then I would have been prepared to accept that there would be no need for public hearings and to move to a report. The problem is that the committee did not even do that. It is a disgraceful abrogation of those members' responsibilities, and I will have nothing to do with it.

Mr Deputy Speaker, the committee did not even give the dissenting member adequate time to prepare a dissenting report. That is quite unacceptable.

Mr Humphries: It's like the Estimates Committee.

MR CORBELL: I am glad the Chief Minister has interjected. Unlike the Estimates Committee, this committee has no set reporting date. The Estimates Committee, as we all know, had to report by a certain time. It had no choice. It had no discretion in the matter. It had to report by a certain date. This committee can report out of session. This committee can choose to report whenever it likes on this draft variation, as the Chief Minister well knows. So whether or not the committee had to report today was not the point; it should not have been a matter of contention. The committee could have reported out of session on Monday in order to give a dissenting member the opportunity to present a dissenting report; but no, they did not even extend that courtesy.

Let me move to the substance of this disgraceful report, if there is any, Mr Deputy Speaker. The bulk of the report is simply an extraction of words previously used in another report on the referral to the committee by this place in relation to a range of matters on the proposals for the Gungahlin Drive extension. There are a number of other comments, one page of new material, in this report. At paragraph 11 the report says:

> … the committee (Mr Corbell dissenting) considers that a further round of public hearings on the GDE is not required.

It is interesting that the report does not say that it did not consider public submissions were not required. Is this an omission, in some Freudian way, that perhaps they felt that public submissions should have been heard? The committee cannot even get its facts straight. The committee did not resolve not to conduct public hearings; the committee resolved not to call public submissions. So even in the preparation of this document it is inaccurate.

Interestingly, the committee goes on to say that if this timetable is achieved—that is, the timetable the majority has set out; that the matter be resolved before the end of this sitting of this Assembly—it expects construction to commence on the road in 2002-03. That is some time next financial year. Mr Deputy Speaker, if that is the timetable, what is the rush? There is a pressing need for better transport links for Gungahlin. The Labor Party has acknowledged that time and time again. The Labor Party has argued, and will continue to argue, that the most appropriate alignment for that key arterial road link is the western alignment.

Mr Deputy Speaker, there is an opportunity, because of the controversial and contentious nature of this debate, for it to be resolved in the most democratic way possible. Mr Hird and Mr Rugendyke should not be afraid of that. It is called a general election. At the general election the people of Canberra will have a choice. They can vote for a Liberal Party that is bulldozing ahead with the eastern alignment, or they can vote for a Stanhope Labor Party which will implement the western alignment, the least destructive, the most efficient and the most effective transport link for Canberrans.

Mr Rugendyke: That is a fair choice.

MR CORBELL: That is a fair choice. The problem, Mr Rugendyke, is that if we pursue your course of action that choice will be denied people. Let me explain to you how it would be denied. If this draft variation is approved prior to the end of this Assembly there is absolutely no reason why the land currently designated for the western alignment cannot be put to some other purpose, and once that is done, Mr Rugendyke, potentially even before the October election, what happens if people do want the western alignment? They will not have a choice, Mr Rugendyke. Clearly, this has not occurred to you.

Mr Deputy Speaker, that is the proposition that Mr Rugendyke and Mr Hird are putting to us today. Mr Rugendyke says he wants choice, but he is prepared to endorse moves that will remove that choice for electors in the October election by removing the area for review for the western alignment, and by removing the opportunity for an incoming government to choose to implement the western alignment. That is what he is doing by endorsing these moves today.

Mr Deputy Speaker, the committee also says in paragraph 13 of its report that it believes that draft variation No 138 substantially picks up the recommendations of the committee in its report No 67. The majority of the committee has not paid close enough attention to these issues. For example, were Mr Rugendyke or Mr Hird aware of the fact that the second flora and fauna overpass had been removed from the government's preferred option? Were they aware of that? Perhaps they would have been aware of that if they had bothered to conduct an inquiry and they had bothered to call public submissions, but clearly they have not, and they abrogated their responsibility when they bothered not to care.

Mr Deputy Speaker, we have seen over the past three or four days alone a number of revelations that at the very least warranted a call for public submissions. They included material obtained by the organisation Save the Ridge as to the government's efforts at costing the road and its misleading information provided to the committee in its previous inquiry, the inquiry that Mr Hird and Mr Rugendyke rely upon so heavily in justifying

the no further need for public submissions or public hearings. This sort of information should have been considered by the committee before reporting. This sort of information should have been given the airing it deserved.

I do not have a problem with making a decision. I do not have a problem with addressing this issue. But I do have a problem with decision-making on the run, decision-making without taking full account of the issues concerned, and decision-making without even giving the community the opportunity to comment on it.

Mr Deputy Speaker, this report is unacceptable. It is, without a doubt, the one report from the Standing Committee on Planning and Urban Services which makes me feel ashamed to be a member of that committee. I feel appalled at, speechless at, and angry about the conduct of the other two members of this committee. If members want to use their numbers on a committee to get an issue through, that is one thing; but to ignore the procedural fairness inherent in the committee's statutory responsibilities under the land act to consider draft variations to the Territory Plan is another, and that is exactly what they have done. They have ignored all concepts of procedural fairness in pursuing this issue, and I am wholeheartedly dissenting from it.

MS TUCKER (4.52): I am not surprised that Mr Corbell is as appalled as he is. I think anybody who has shown a close interest in this saga has to be appalled. I am very worried about the process adopted by two members of this committee in not bothering to seek further public submissions even though new information is emerging from the FOI requests of the Save the Ridge community group.

The committee also should have sought community reaction to the government's response to the earlier inquiry. The costings for this road have been found to be very rubbery, which calls into question the committee's conclusion in their original inquiry that the western option was significantly more expensive than the eastern option. In the original report the committee quoted $22 million maximum for the east and $28 million maximum for the west, a difference of $6 million, or a 27 per cent difference. Mr Smyth said yesterday in the Assembly $32 million for the east and $34.7 million for the west, only a $2.7 million or 8 per cent difference.

Is a $2.7 million saving worth destroying four hectares of bush on Bruce and O'Connor ridges, as acknowledged in the government's response as the difference in the area of vegetation lost in the eastern route over the western route? We know that in the committee process there was little understanding and therefore no regard given for value other than monetary value, except, of course, when they were looking at amenity for car parks and so on on the western side of the Bruce Precinct Association's position.

There is also the issue of the difference in length of the two options. Mr Smyth said on Tuesday that the eastern option was 300 metres longer than the western route, 5.1 kilometres to 4.8 kilometres, or a six per cent difference. This means that the eastern route will cause a six per cent increase in fuel consumption, greenhouse gas emissions and other pollution because of the extra distance travelled by cars—an increase when the government says it is committed to reducing greenhouse gas emissions.

I would prefer that there be no road, but if there is to be a road we should at least be making the road as efficient as possible. The committee should look further into the extra environmental impacts caused by the eastern option.

We also heard yesterday that the government is not pursuing the fauna overpass north of Caswell Drive, which will create an even worse environmental impact on the ridge as this road will severely disrupt fauna movement on the ridge, let alone the disruption to the recreational activities of runners, cyclists and walkers. It will also increase the risk in car accidents.

In their original inquiry the committee noted the government's earlier agreement to examine the feasibility of fauna overpasses, and this may have played a role in reducing their concerns about the environmental impacts of the road, if they had such concerns. The committee needs to look again at those environmental impacts.

The concerns of the Aranda residents also need further examination. Both options require the upgrading of Caswell Drive, and I know that the Aranda Residents Group has put forward a proposal to move Caswell Drive to the east. I think the committee should examine this proposal as it does have a significant impact on this corner of the Black Mountain Reserve.

The committee also needs to examine the response of the National Capital Authority to this variation now that it has come to light that a variation to the National Capital Plan is necessary for this road to proceed. I understand that the NCA did not provide a submission to the committee's earlier inquiry, yet this road has an impact on the national capital status of Canberra because of its passing through the inner hills which are designated areas under the National Capital Plan.

534 submissions were received on draft variation 138. Obviously there is a lot of concern in the community about the variation. The committee is being derelict in its duty to respond to community concerns. The significant change from the draft variation released for public comment and the final draft submitted to the minister is that the route of the inter-town public transport corridor has been changed. The route from the AIS to Belconnen Way between Bruce and O'Connor ridges has been dropped and the IPT now joins up with the Gungahlin Drive extension, with the assumption that the IPT will now travel down the drive to Belconnen Way.

This raises new issues of how the IPT will be integrated with Gungahlin Drive and how the intersections of the IPT with Gungahlin Drive and the IPT with Belconnen Way will be designed. I understand the committee was taking a great interest in the effectiveness of the intersections on various routes. They have no idea about this. They have not looked at it. I think the committee should certainly be examining the feasibility of this change and how it would work.

A further issue that has come to light is that in the government's haste to finalise the plan variation it may not have complied with the notification requirements in the land act. Sections 19 and 21 of the land act clearly set out what the correct sequence of steps should be to ensure proper process, and it appears that this sequence of steps has not been followed for this draft variation.

The most significant example of this is in relation to availability for public viewing of comments from the NCA. The ad for DV 138 placed by PALM in the *Canberra Times* on 19 May 2001 inviting public comment states that any comments received, including from the NCA, will be available for perusal from 3 July to 24 July. While the notification in the *Canberra Times* complied with section 19 in terms of stating the necessary events in the process, the carrying out of the stated events in the notification did not all occur.

Members of Save the Ridge who tried to access these documents have told me that comments from the NCA were received by PALM on 20 June but were not made publicly available until the PALM report to the executive had been signed off by the minister and made available to the public on 6 August. Thus it appears that section 21 has not been complied with. I think the committee should look into this breach of the land act. The Save the Ridge group has sought its own legal opinion on this, but because the committee has not sought public comment it has not been able to formally present this information to the committee.

For all those reasons I think it is extremely important that Mr Hird and Mr Rugendyke reconsider what they have done here and that this Assembly direct this committee to take its responsibility seriously and do the work that it should be doing.

I therefore move the amendment circulated in my name which says:

> Omit all words after "That", substitute:
> "this Assembly does not accept this report and requests the Standing Committee on Planning and Urban Services to call for, and consider, public submissions into Draft Variation No 138 to the Territory Plan before re-presenting its report."

I ask members for their support because I agree with Mr Corbell. A majority of members of this committee have failed to understand their responsibility. Mr Hird and Mr Rugendyke speak of making a decision. Their job is not to make a decision unless an informed position has helped them reach that decision. They do not have an informed position; they have not considered any of the issues that I have just raised. For that reason they have failed in their responsibility. Unfortunately it has come to the point where I have to ask the Assembly to instruct Mr Hird and Mr Rugendyke to do their jobs.

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

MR STEFANIAK (Minister for Education and Attorney-General) (5.01): Mr Deputy Speaker, I want to speak briefly. I think there does come a time when the decision needs to be made. There has been a lot of effort put into this and a lot of submissions over a considerable time, some years, I think.

We talk about saving the ridge. I think the ridge has been saved. The ridge was saved by my colleague, Mr Humphries, back in about October last year when that route was going to go through O'Connor ridge. I have walked O'Connor ridge. I have crossed it quite a few times going to Bruce Stadium. That route was deleted. If anyone bothered to look at the route favoured by the majority of the committee and the government they would see that it has very little to do with O'Connor ridge per se.

Yes, I think the Aranda residents have made some interesting comments in relation to where Caswell Drive could go. That is something I gather my colleagues are looking at and will continue to look at. Indeed, if we are not the government after 20 October, I hope the other side will do that too.

I reiterate what I said when we had some debate about this several months ago in relation to the western route. I was very concerned that Labor supports the western route. I was amazed in some respects because I know the committee had the benefit of submissions from Mr James Ferguson, who was then director of the Australian Sports Commission, and some other people. I reiterate what I think I said in an earlier debate in relation to that; that there is a very distinct and real possibility that were the western route to go ahead we would lose the Australian Institute of Sport.

The institute employs hundreds of people. Lots of the younger athletes there go to our schools. It is of immense benefit to the territory. We were talking about economic benefits from the GMC400. I think those benefits would pale into insignificance compared with the sustained year-in year-out benefit we get from the Australian Institute of Sport, not to mention the magnificent sporting facilities there that territorians have the benefit of using. Also, I think there would be significant problems in terms of the use of things like Bruce Stadium, and we all know we have made a considerable investment in that. It is an excellent stadium.

There are just so many problems, I think, with that western route. I just want to reiterate to members that other states would love to have the Australian Institute of Sport, and there would be a real danger of that occurring were that western route to be picked. There has been a lot of angst over this matter and a lot of very genuine concern. There were some good reasons why the route down O'Connor ridge was problematic. Mr Humphries solved that by taking that out, back in October or November of last year.

I wanted to make those points, Mr Speaker, because I would hate to see this Assembly, or the next Assembly, make the wrong decision which would see the Australian Institute of Sport go to some other state capital.

MR KAINE (5.04): Mr Speaker, I support Ms Tucker's amendment to Mr Hird's motion. I do so because I think we are seeing the processes of land planning and development subverted. They are being deliberately subverted by the government. I just cannot believe what I am hearing. What I am hearing is that we do not care what the public thinks about this variation.

The matters that Mr Stefaniak put before the Assembly are totally irrelevant. These variations are about putting a road through an area of Canberra. If this has an adverse effect on the AIS, that is something that can be considered, but that is not the primary issue that is before us. If the committee says it is not going to look at this variation, you can only conclude that it says that it believes that the issues which are raised by the two planning variations are one and the same. If the issues raised by these two proposed variations to the plan are one and the same, why are they the subject of two different variation proposals? Of course, the answer to the question: "Are they one and the same?", is no, they are not. Yet the committee has chosen to set aside the interests of the

community in considering the second variation proposal on the basis that it knows all the questions and all the answers in relation to the issues raised by that variation.

Mr Speaker, I submit that they do not. I submit that they cannot. The only way to know the issues is to do what the committee is required to do, and that is to call for submissions from the government, if it chooses to put one in, and from other interested people in the community, and then weigh the evidence that is put to it in those submissions. The committee cannot know otherwise.

Mr Speaker, as I said at the beginning, I am concerned that what we are seeing here is a government that claims to be committed to community consultation flatly refusing to consult on an important issue such as this one. I repeat that I believe the government, aided and abetted by Mr Hird and his committee, or certain members of it, is deliberately subverting the due processes of planning and development. If the government is going to do that with this one, is it going to do it with the next one down the pipe as well, and the one after that? Are we setting a precedent? Mr Speaker, I think it is a most undesirable precedent.

Mr Hird has not put forward a convincing argument as to why he chose not to go through the proper processes in connection with this variation. His only argument is: "I made up my mind." Well, that is not what he is paid to do, Mr Speaker. He is paid to let the community have their say. I do not see how you can possibly justify riding roughshod over the community on this or any other proposal to vary the Territory Plan.

Mr Speaker, I think Ms Tucker is correct. I think the committee ought to be directed to go back and do what it is obliged to do as part of the processes of planning and development in this territory.

MR CORBELL (5.09): I will speak to Ms Tucker's amendment. Mr Hird probably is going to stand up shortly and tell us that all of those files he has over there are the public consultation. Is that what you are going to do, Mr Hird?

MR SPEAKER: No rhetorical questions.

MR CORBELL: I imagine, Mr Speaker, that that is what Mr Hird is going to do. He is going to use all of those files over there and say that is the public consultation. Well, Mr Hird should think again about how this process under the land act works. Mr Hird should know, and I pray that he does, Mr Speaker, but I am worried that he does not, that under the land act there are two very clear and distinct consultation processes in relation to any proposed variation to the Territory Plan.

The first, Mr Speaker, is conducted by the ACT Planning Authority, or, as it is currently known, Planning and Land Management. When Planning and Land Management release a draft variation for comment they take submissions on it. Then they consider those submissions, report to the executive on the variation and the result of their own consultation process, and then the executive refers that variation to the Standing Committee on Planning and Urban Services. Then the Standing Committee on Planning and Urban Services conducts its own inquiry into the draft variation, and almost always the standing committee again calls for public submissions on that variation.

Mr Hird is going to say to us shortly, I am sure, that he did not need to call for public submissions on this variation because he had done that in a previous inquiry. Mr Speaker, if Mr Hird is going to use that logic, there is absolutely no point in the Planning and Urban Services Committee ever calling for public submissions again on any other draft variation to the Territory Plan, because he could just as easily say, "Planning and Land Management have called for comment. Planning and Land Management have had public consultation. Why do we need to do it again?"

There is a very clear reason, Mr Speaker, why there is a two-stage consultation process, and that is that the Assembly has given a legal power, under the land act, to a standing committee of this place to conduct inquiries separate from the consultation process conducted in any other place. So Mr Hird cannot rely on work that has been done previously, because it is not relevant to the process that he is obliged to undertake as a member of the standing committee charged with the consideration of draft variations to the Territory Plan.

Mr Hird has not only thrown that very important responsibility out of the window; he also has chosen to throw out of the window any capacity to ensure that the Planning and Urban Services Committee remains a workable committee. He has done that in light of political expedience. He has done that simply because he has got his riding instructions from the government. That is the plain fact of the matter. He has got his riding instructions from the government. He is not an independent chair. He is not a chair looking for consensus and a bipartisan vote. He is simply carrying out the orders he was given. He has undermined the responsibilities that this committee has under the act.

As Mr Kaine said, what is there to say it is not going to happen again? What is there to say that this is not going to become a precedent? On controversial draft variations, if you have the numbers, you do not have to consult. That is a pretty unacceptable approach, Mr Speaker. I know that you, Mr Speaker, as someone who has taken an interest in planning issues in the past, particularly as an opposition spokesperson on planning, are very aware of the sensitivity relating to people being denied the opportunity to have their say on planning matters.

The proposal put forward by Ms Tucker today is an unusual one, but it is an important one, because on controversial proposals to vary the Territory Plan the committee has a clear obligation—that is, to conduct an inquiry, and to conduct an inquiry with procedural fairness. Before a committee makes up its mind as to what exactly the issues are, it should ask people to let them know what the issues are, and that is what calling for public submissions is all about.

As I said earlier, Mr Speaker, I would have had no difficulty if the majority of members, having called for public submissions and viewed those public submissions, had decided that there was no new information and on balance there was no need for public hearings and would proceed to report. The committee would have been able to gauge whether there were new issues, whether there were new concerns, or whether there were residents who had not previously had the opportunity to comment and wanted to take that opportunity, and had expected to be able to take that opportunity through the normal processes of this committee.

Ms Tucker's amendment should be supported today. If it is supported today I would urge the government to not proceed with the tabling of the variation, as has occurred today, and in fact put that in abeyance until the committee has reported in accordance with the amendment proposed by Ms Tucker if passed by this Assembly.

MR RUGENDYKE (5.16): This debate today is one of many involving this issue. There are more to come. We are merely being asked to note the paper, and we do that. Mr Speaker, there is a lot of mock indignity about today about whether or not we should finally make a decision on this very important issue. This issue was inherited from the last parliament and it has gone on throughout this entire parliament. It is my view that this Assembly would be abrogating its responsibility to the people of Gungahlin and Canberra if we fail to make a decision.

Let's not beat around the bush; there will be opposing views. When we have the debate on the motion of disallowance that will come, obviously, I will inform the house how the government came round to my view on where this very important road should go. There is some sort of conspiracy theory about, I think, that I have just gone along with the government. That is totally wrong.

Ms Tucker: The government has gone along with you.

MR RUGENDYKE: The government has agreed with my final position, and I will explain how that happened. Okay, I will do it now, but I was planning to do it. I will give a brief summary. Since we are only noting today's paper, I will give a brief outline of what happened.

Ms Tucker: I am saying don't note it, actually. I have an amendment you can respond to.

MR RUGENDYKE: I will respond to the amendment, too. Okay. We started with Gungahlin Drive coming down, as it does, from the Barton Highway, across Kaleen and across Ginninderra Drive. Then we had a choice—east or west of the stadium. That is the crux of the problem, isn't it? East or west of the stadium.

I was very keen to listen to all the arguments on whether it should go east or west, even though my first gut feeling or logic was that the road should go behind the stadium, to the east. That was my first gut feeling. Okay? But I listened to all the argument on the submissions. There are a lot of submissions. We looked at them all very rigorously.

I did not want to do this now, Mr Kaine, but I think it was 8 September that I had a meeting with the Save the Ridge people and I thought, "I will offer a compromise here." In this place we try to compromise as best we can. It was my thought that I would suggest that I would not support the spur to Barry Drive across O'Connor ridge if they would agree to the road going to the east of the stadium. The top part of that road is inside the fence. It does not go across O'Connor ridge. It is inside the fence. It might cut across the AIS back carpark, but that was the compromise I tried to reach. I would give up the spur to Barry Drive across the ridge if they would to agree to letting it come behind the stadium. Okay, that was a compromise, and I thought it was a good one. The bit of the road to the south of the stadium, the bit of the road to the east of Calvary

Hospital, is common to both, so that was going to be there anyway. So the compromise was that I would give up this spur if they would allow it to come behind the stadium.

No, there was no room whatsoever for compromise. There was no compromise. There was no room at all for any negotiation. So I thought, "Since there is no room for any negotiation, that will be my position. I will not support the spur, but I will recommend that it come to the east of the stadium and meet up with Caswell Drive as it does."

I think it was on 11 November—I am testing my memory here and I could be wrong—that the Chief Minister abandoned the spur. So, in effect, the government agreed with my position, didn't they? Didn't they?

MR SPEAKER: Order, Mr Rugendyke! Address the chair please.

MR RUGENDYKE: There is mock surprise that that should be the case.

Mr Humphries: Struck dumb.

MR RUGENDYKE: Dumbstruck that that should be the case. If I had blurted that all out the vocal people in this debate would have hounded me into the ground, berated me severely, so I kept it under my chest. That is the decision I have come to.

Mr Speaker, in the real debate I will talk about some of the submissions. I will talk about the very good submission from the Bruce Precinct Association who have been about since, I think, 1977. They are recorded as having made submissions to the GETS inquiry. I think it was that one. I am testing my memory again because I have not got the papers in front of me. I apologise for that, but I did not think we would be going into a fully fledged debate on this topic today.

The Bruce Precinct Association gave very good submissions and showed very clear logic as to why the road should not go to the west of the stadium. I congratulate the committee that is incorporated for the Bruce Precinct Association. They are terrific people. They put in a wonderful submission, and I think they did a supplementary submission. I am trying to remember some of the names of the people on the committee, but I cannot. I will mention them, Mr Speaker, when we have the real debate, and you will be surprised who those people are. Just remember the Bruce Precinct Association. I will congratulate the committee of the Bruce Precinct Association and name them. They have done such a wonderful job that I will name them.

Those are very basic reasons why I made a decision. I know that some people do not like that, but I do not apologise. I have made a decision. I am proud of that decision. I stand by that decision. I will not support Ms Tucker's amendment to send this matter back to our committee that has looked at this issue throughout the entirety of this Assembly and who would be ashamed to refer it to the next Assembly.

MR HIRD (5.24): Mr Speaker, I was listening this morning to 2CC and I heard the Leader of the Opposition berating the Chief Minister over the pending referendum. The Leader of the Opposition said, "Politicians are paid to do a job and to make decisions." That is quite right; they are.

This amendment that Ms Tucker has put forward is a nonsense amendment. She has come clean by stating that she does not agree with the road anyway. She does not agree with the John Dedman Parkway or Gungahlin Drive. Well, I would like to give her a hot flash seeing she is trying to give me an education in political awareness. The fact is that Gungahlin is well and truly in Ms Tucker's electorate, and I hope people remember that on 20 October.

I turn to my colleague Mr Corbell. He referred to report No 67 which I mentioned earlier today. When I look at figure 9 in that report, what has changed under draft variation 138? Nothing. Not a thing. Not a smidgin. So what's the hoo-ha? As my colleague Mr Rugendyke said, it was a choice between the western route which Mr Corbell agrees with or the eastern route. The western route goes through a marsh, directly in front of the AIS, and directly in front of the Bruce Stadium.

Mr Corbell said that the government is bulldozing this matter through and that I have my riding instructions. I think he used those terms. Well, let me inform Mr Corbell, who was in the public hearings when we did this inquiry over two years, that we had people from the AIS saying they did not want a four-lane highway out the front. The minister for sport earlier this day identified that we could lose such an institution and lose jobs. But not only that, there would be a four-lane highway out at the front of Bruce Stadium. Who did we have from the Bruce Stadium? The Brumbies, the Raiders and the Cannons. These people came forward to say that they supported the eastern route.

When all is said and done, what about the people of Gungahlin in the electorate that Ms Tucker is supposed to represent? They said through their community council that they support this route, the eastern route shown at figure 9. Nothing has changed.

So why do we need to go to more expense? Is this another one of Labor's tricks, to go to the expense, or is this a Labor delaying trick? Do they want to delay this? If they do not they will support our recommendation on draft variation 138, because it will take at least another 12 months before this matter is resolved, if indeed the people from O'Connor ridge allow it to be resolved. It is clear from what has been said that they are not willing to have a compromise. They have had the IPT route redirected.

It is interesting that Ms Tucker does not know there is an IPT route parallel with Belconnen Way. She should look at the Territory Plan. The government has taken that out. The government took the spur out at the request of Mr Rugendyke, which I thought was a sound idea. It does not go through an area known as O'Connor ridge. I know the area very well. Why do I know the area very well, you might ask. The fact is that I used to go to that area with rubbish because it was a local rubbish tip for the area for many years. There is also a rubble rubbish tip located in that area, and there were small industrial buildings along the old Weetangera Road. The people from O'Connor ridge may not know that, they might be too young, but that is the area.

I have a friend of many years standing who lives in Dryandra Street, O'Connor and he and his family are annoyed when there is activity at Bruce Stadium. The O'Connor ridge people should have raised the issue. People park along Dryandra Street and stalk through this area to get to Bruce Stadium. So much for it being maintained. Hundreds of people use that area to park their vehicles and do untold damage to this area that they call an environmental sanctuary.

I go back to what Mr Corbell said. Nothing has changed since my committee brought in report No 67. If anyone can show me today that there has been a change in respect to figure 9, which is what draft variation 138 is all about, I would certainly take it back to the committee. There has been no change. This matter started back in the 1960s. This matter was looked at by the joint parliamentary committee in 1991 under the chairmanship of Mr Langmore, whom you worked for, Mr Corbell. The fact is that the Labor Party, under—

Mr Corbell: Do you know which route he recommended, Harold? Which route did he recommend, Harold? He recommended the western route.

MR SPEAKER: Be quiet, Mr Corbell. You are not at a caucus meeting now.

MR HIRD: The Labor Party, under the Follett government, if they had been fair dinkum when they were developing the district of Gungahlin, would have put in this infrastructure. You always hear them saying that we want to create employment out there. Where is the road system? Why isn't the road system there? Of course, it was as an oversight. If we had done it then, under the Follett government, it would have cost millions of dollars less than what it will today. You, sir, and your colleagues, and the Greens, are delaying this urgently needed road. This road is a lifeline to the citizens of Gungahlin and it is urgently needed. I urge members not to support the amendment moved by Ms Tucker, because Ms Tucker has indicated that she does not want the road in any case. So much for the Greens.

MS TUCKER: I seek leave to speak again to my amendment.

Leave granted.

MS TUCKER: I thank members. I think it is necessary to make a couple of points about Mr Hird's recent comments about the need for haste. I think Mr Rugendyke also commented on that. It is interesting to reflect on the history of this. There is a media release here from Gary Humphries in 1997 saying the road would only be considered for construction when Gungahlin's population reached a high enough level to justify it, and the estimate was that this population level would not be reached for around 10 years, which is the year 2007. Of course, that has changed dramatically.

Mr Hird seemed surprised that the Greens had taken a position on the road. Of course we would prefer no road. We have been lobbying on behalf of Gungahlin residents for seven years to have some proper public transport service, employment and so on. I am sure Mr Hird, when he thinks about it, will remember all those debates we have had on that issue, and it would not be a surprise to him at all to hear the Greens say that. But, of course, he belongs to the party who made public transport more difficult to access in Gungahlin.

I think there are several things that have to be said about the responses to my amendment. Neither Mr Hird nor Mr Rugendyke have addressed any of my arguments. They have not addressed the very interesting change in figures since they had this committee inquiry. I will repeat them. The figures they dealt with were $22 million for

the eastern route and $28 million for the western route. That was a $6 million difference and a 27 per cent difference. We now have $32 million and—

Mr Rugendyke: Somebody made a mistake. Goodness me.

MS TUCKER: Mr Rugendyke thinks somebody made a mistake and we shouldn't worry because mistakes happen. Okay. That is a difference of 27 per cent difference between the two options. That has no meaning for Mr Rugendyke. That is pretty sad. We would have hoped that someone in his position would take an interest in such a dramatic difference of funding because—

Mr Rugendyke: What do we do? Crucify the poor bloke who made the mistake and who apologised for the mistake?

MS TUCKER: Mr Rugendyke wants to know should we want vengeance. This is getting sadder by the minute. He says no, we don't want vengeance. Mr Rugendyke, this is about the expenditure of public funds and you are on a committee to make a decision about the wise expenditure of public funds. If one saw a dramatic change in a funding option and one was responsible, one would want to look at the implications for the public purse; but Mr Rugendyke does not care.

Mr Rugendyke also does not seem to mind that the fauna overpass is no longer there. Mr Rugendyke and Mr Hird have not responded to the need to carefully look at the fact that 534 submissions have been put in about this draft variation. No, they just want to get on with it. Mr Rugendyke and Mr Hird have not bothered to look at the detail of where the new inter-town public transport would meet with two major roads. That clearly is not of importance either.

Then Mr Rugendyke enlightened us as to how he made his decision. He was lobbied by the Save the Ridge group and he gave them two options. Mr Rugendyke is the deal maker. He is in power here. He is, we just heard, in control of all planning in the ACT in terms of this road because he made the decision which the government followed because it was so wise. He put a compromise position to save the ridge. Go east. He will remove the spur. That's generous. A pity about the environmental implications of the eastern route. It doesn't matter what the environmental implications are; there is a bit of a deal done here. He says, "I'll take the spur off and therefore it will be okay."

Mr Moore is squirming, of course, because he has been totally silent on this issue. Mr Moore was telling me before I was even a member of this parliament that he would not go east, but with this pathetic removal of the spur he tries to justify supporting the eastern route.

Mr Moore: You don't know what my position is, Kerrie Tucker, but I tell you what; if anything, you are helping to change it.

MR SPEAKER: Order, please! Ms Tucker has the floor.

MS TUCKER: Mr Rugendyke's proposal was to go west with a spur. Well, that makes a wonderful long road. I wish we could have seen the analysis of that one. Did the committee go into detail on the costs of that one? Yes, that would have been really interesting. I am not surprised that the people concerned thought that was not workable.

I do not know whether I am going to get support for this amendment because Mr Osborne has not spoken, but I know he promised to listen to the debate on the floor, and anyone who listened to this debate would have to support my amendment.

Question put:

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

The Assembly voted—

Ayes, 8		Noes, 9	
Mr Berry	Mr Stanhope	Mrs Burke	Mr Osborne
Mr Corbell	Ms Tucker	Mr Cornwell	Mr Rugendyke
Mr Hargreaves	Mr Wood	Mr Hird	Mr Smyth
Mr Kaine		Mr Humphries	Mr Stefaniak
Mr Quinlan		Mr Moore	

Question so resolved in the negative.

Original question resolved in the affirmative.

Deputy Leader of the Opposition and Leader of the Opposition

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Speaker, I ask for leave to move a motion circulated in my name regarding the censure of Mr Quinlan and Mr Stanhope.

Leave not granted.

Suspension of standing and temporary orders

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (5.42): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Humphries from moving the motion circulated in his name regarding the censure of Mr Quinlan and Mr Stanhope.

Mr Speaker, there was some debate earlier today about some words used by Mr Quinlan in this place yesterday. Those words are a fairly serious reflection, I argue, on a member of this place. They are sexist and they are unbecoming. They are words which need to be taken up and addressed by this chamber.

Mr Quinlan has denied he used these words. The *Hansard*, I argue, shows very clearly that he did use the words. Mr Stanhope indicated when he spoke today in the debate on this matter that he had heard some completely different words. Mr Quinlan's version of events, unclear though they might be, was backed up by Mr Stanhope. Mr Stanhope's version has also been repudiated by the transcript and by the Hansard audio recording.

Mr Speaker, I think these are serious matters that deserve to be debated. When a member misleads this place it is usually the practice of the house to proceed to deal with that matter. We have a motion to put before the house to censure Mr Quinlan and Mr Stanhope for their remarks, and I believe it is appropriate for the Assembly to consider that motion.

Mr Speaker, I do not think that such words ought to be allowed to lay on the table. The Assembly will not sit again for almost another two weeks—10 or 12 days from now.

Mr Wood: And legislation is your priority? There is a whole pile of legislation.

Mr Berry: You wouldn't want to talk about jobs.

Mr Wood: And this is your priority? Don't come back in a couple of weeks saying, "We have all this legislation that we have got to do."

MR HUMPHRIES: Mr Speaker, it may not accord with the priorities of some members to defend the status of women in this place, particularly when those people belong to a party which has no women in this place and for whom the proceedings of this place are one big locker room-type game. Mr Speaker, I do not believe that that is appropriate. These words are a put down—

Mr Hargreaves: On a point of order, Mr Speaker: the minister is arguing this matter. The actual question before the house concerns the suspension of standing orders.

MR SPEAKER: The question before the house is that standing and temporary orders be suspended.

MR HUMPHRIES: Mr Speaker, this is a serious matter and we need to suspend standing orders to allow it to be debated. I have been refused leave by those opposite to move my motion. I believe we ought to suspend standing orders to enable this matter to be brought to the attention of the Assembly.

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

> That the question be now put.

Original question resolved in the affirmative, with the concurrence of an absolute majority.

Motion of censure

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (5.46): I move:

> That this Assembly, noting:
> - that Mr Quinlan is recorded in the draft Hansard for yesterday, 8 August 2001, as referring to Ms Burke as a "***condescending bloody woman***";
> - that Mr Quinlan, when asked earlier today to withdraw the remark, persistently denied that he had made it;
> - that in discussion of this matter earlier today Mr Stanhope, who is the Opposition's spokesman on the status of women, claimed to remember the proceedings well enough to aver that Mr Quinlan had not made the remark;
> - that an examination of the audio recording of the proceedings clearly reveals that Mr Quinlan did make the remark recorded in the draft Hansard;
>
> (1) Censures Mr Quinlan both for his sexist language and for his dishonest denial that he made the remark recorded in the draft Hansard; and
>
> (2) Censures Mr Stanhope for failing to provide leadership on, and uphold among his party, acceptable standards of parliamentary conduct and honesty and due respect for the status of women.

This motion, which has been circulated in the chamber in my name, deals with remarks made yesterday by Mr Quinlan in referring to Mrs Burke as a "condescending, bloody woman". Mr Speaker, the motion seeks to censure both Mr Quinlan and Mr Stanhope for their role in what I think is a quite unfortunate, indeed disgraceful, episode that occurred in this place yesterday.

First of all, Mr Speaker, let me set the scene for what occurred yesterday. Yesterday was a fairly testy day in the Assembly. Indeed, that is probably true of many days in the Assembly these days. After question time there were a number of exchanges in which members were making remarks about each other, personal reflections on each other, and the temperature was admittedly fairly high.

I rose at about half past three to present a number of documents, including contracts for a number of public servants. At the end of my presentation of the contracts I asked members to respect the sensitivity associated with the contracts. Not every member of the chamber was present. Certainly I was present, as were Mr Quinlan, Mr Berry, Mr Speaker and Mrs Burke. In particular, I might note, Ms Tucker was not present, which is relevant to the course of events.

There was some angst or difference of view about the appeal that I was making to the chamber to treat the tabled documents with sensitivity. Members for some reason had some concern with that view being expressed by me. In the course of my remarks there was some exchange across the chamber. Mr Quinlan made a remark directed at this side of the chamber. My recollection is that Mrs Burke and I were sitting where we are now. I do not believe there were other members present—I could be corrected—on this side of the chamber. A remark was directed at this side of the chamber by Mr Quinlan. I heard the word "condescending". That word was said quite loudly and I heard it very distinctly.

Mrs Burke heard the word "bloody", and she ultimately raised a point of order about that. When she raised that point of order with you, Mr Speaker, Mr Quinlan initially indicated he did not know what she was talking about, he did not know what remark was being referred to. I will quote what was said. The Speaker said:

> What remark was made?

Mr Quinlan said:

> Which one was that?

Mrs Burke said:

> You know what it was Mr Quinlan.

Mr Quinlan then said:

> No, you'll have to remind me, but if it's—did I call him a liar or something?

Mr Quinlan was very evasive about what was being said. Mrs Burke ultimately suggested that he had described me, the Chief Minister, as a bloody fool. Mr Quinlan rose very indignant and said:

> Mr Speaker, I did not refer to the Chief Minister as a bloody fool.

And you, Mr Speaker, then called for some order and members proceeded to deal with other things. Mr Quinlan did, however, add slightly later on—and this is interesting:

> I'm not having another MLA put words in my mouth.

Mr Speaker, someone has put words into his mouth. The *Hansard* has put words into his mouth, and those words are, and I quote from the draft *Hansard* circulated today:

> Condescending, bloody woman.

Mr Speaker, earlier today this question was raised in this place, and Mr Quinlan was asked to withdraw the phrase. He denied having made it. He said it was not the phrase he used. Mr Speaker, I have been up to the Hansard suite and I have listened to the recording, as have a number of other members of this place. There were three words used. "Condescending" and "bloody" are quite distinct and quite clear. The word "woman" is admittedly somewhat less clear, but is nonetheless quite distinctly used, and it is a word also distinctly used about someone on this side of the chamber.

I was present at the time when the remark was made. I heard it. I saw Mr Quinlan's eyes; I saw Mr Quinlan's body—it was facing this side of the chamber, it was directed at this side of the chamber. Mrs Burke initially thought it was directed at me. Mr Quinlan appeared to deny that fact, and subsequently he indicated he made no such remark about me, particularly with respect to the phrase "bloody fool".

Mr Speaker, I heard the word "condescending". Mrs Burke heard the word "bloody". What was the last word used? Mr Speaker, it was not "fool" because Mr Quinlan himself denied yesterday that he had used that word. In fact, it is interesting to note that, having denied yesterday that he had said that, today he said in the chamber that he had withdrawn the description "a bloody fool" in respect of me.

Mr Quinlan: I thought I had but—

MR HUMPHRIES: That is not what the *Hansard* shows, Mr Speaker.

Mr Quinlan: I got chopped off by the Speaker.

MR HUMPHRIES: Oh, you were chopped off?

Mr Quinlan: Have a look at page 60.

MR HUMPHRIES: Mr Quinlan apparently is now claiming that he has been misreported. He claims constantly that he is misrepresented in this place by me. Now he claims he has been misrepresented or misreported by Hansard, apparently. It seems that Mr Quinlan is a man much misrepresented in this place—a man more sinned against than sinning, you might say.

Mr Speaker, the remark that Mr Quinlan made is recorded in the *Hansard* as "Condescending, bloody woman". It is a remark which has been verified by the Hansard office, it is a remark which I believe Mr Quinlan made, it is a remark which must have been directed at someone on this side of the chamber. I will come to Mr Stanhope's role in this in a moment, but the remark was obviously directed at someone on this side of the chamber.

If Mr Quinlan wants to rise in this place and seriously maintain he was addressing Mr Hargreaves or Mr Berry or Mr Stanhope, then that is another matter.

Mr Berry: Or you.

MR HUMPHRIES: If it was addressed to me, then why, when asked yesterday to withdraw a remark made about me, did he deny making that remark? Mr Speaker, he made a remark yesterday which he denied disingenuously having made about me. The *Hansard* shows he made it about Mrs Burke—clearly he had made it about Mrs Burke.

Mr Speaker, there was tension between Mrs Burke and Mr Quinlan. There were exchanges between the two of them during the day and subsequently. Mr Quinlan, the same page of *Hansard* records an exchange between you and Mrs Burke.

Mr Hargreaves: She started it.

Mr Quinlan: She started it.

MR HUMPHRIES: She started it, Mr Speaker; Mrs Burke started it. So it is okay to call people names if they start it. Well, that is fine, Mr Speaker.

Mr Speaker, I do not think the detail of how this came about is particularly relevant. What I do think is important is that this Assembly indicates its disapproval of language of this kind being used in respect of women in this place. In fact, it is not particularly savoury to use language of this kind in respect of any member but it is most unsatisfactory to use it in respect of women in particular.

The Labor Party sits in this place as a party of men. There are six men but no women representing the Labor Party in this place. I understand that from time to time they have indicated some regret for that fact, but as yet they have not taken active steps, as far as I can see, to correct that fact. So be it. That was a decision made about their party by the electors in 1998.

Mr Speaker, clearly remarks of this kind, generated for whatever reason by the opposition, are unacceptable. Mrs Burke may be a new member and she may be less experienced than some people in this place, but she is entitled to be treated with respect and in particular not be attacked in a way which I think is clearly sexist.

Mr Speaker, the motion also refers to Mr Stanhope. In the course of remarks made today, Mr Stanhope came to Mr Quinlan's defence. Although the transcript of what Mr Stanhope said this afternoon is not yet available, it will show, I think, that he postulated an alibi for Mr Quinlan. My recollection is that he said that the context of the remark "Condescending, bloody woman", or words to that effect, was a private conversation between the two of them and was not directed at anybody else.

Mr Speaker, if members of this place are going to behave in that way, denying insincerely that they made remarks and pretending that they heard members make remarks different to the ones that are recorded in *Hansard*, then that is a game they can play. That is not the way to behave. I believe we need to respect the position of other members of this place in accordance with the rules that are laid down in standing orders and convention to limit what is said about members.

Mr Speaker, I believe that Mr Stanhope and Mr Quinlan are deserving of censure. Mr Quinlan deserves to be censured for his sexist language and for dishonestly denying that he made the remark which is recorded in *Hansard*. If Mr Quinlan—

Mr Berry: Mr Speaker, I think the word "dishonestly" needs to be withdrawn.

MR HUMPRIES: This is a censure motion, Mr Speaker. That is what it is all about. This is a time when I can use that phrase, Mr Berry, as you well know. Mr Speaker, the word is apposite because Mr Quinlan first pretended he had not made any such remark.

Mr Speaker, let us go to the question of dishonesty.

Opposition members interjecting—

Mr Moore: On a point of order, Mr Speaker: a censure motion is usually heard in silence. Mr Humphries has been interrupted quite a bit. It is normal for a serious motion like this to be heard in silence.

MR HUMPHRIES: Mr Speaker, let us go to the question of dishonesty. Mr Quinlan first of all denied that he had made any such remark. He wanted to know what the remark was. He played dumb. "I have not said anything that I need to withdraw," was the context of his remarks at about half past three yesterday. "What remarks are you referring to? You tell me what remarks I have made."

Mr Quinlan, when Mrs Burke put forward the words that she thought you used, you denied you did so. Even though the *Hansard* has words which are extremely similar, you denied using them. Mr Speaker, he was asked to withdraw them. He refused to do so because he denied that he actually used the words. He did not come back to this place and say, "No, I didn't say, 'Condescending, bloody woman'," or "I didn't say, 'Bloody fool,' I said something else," and indicate what that was.

Mr Speaker, he then today claimed that he had withdrawn the description "bloody fool". He claimed he had withdrawn those words in this place, but clearly he had not. There is no record in the *Hansard* of his having withdrawn those words—none whatsoever. If Mr Quinlan was sincerely misrepresented, why did he make that false claim today?

Mr Speaker, the words were inappropriate. Mr Stanhope falsely indicated a position in this place. He made up a version of events which clearly is not borne out by the context of the *Hansard* and, as such, he should be censured as well. He should also be censured for his failure to exercise leadership in the parliamentary conduct and honesty of his colleagues in this place, and the attitude that they display towards women in this place.

Mr Quinlan and Mr Stanhope are very quick to rise to comment on what they see as misleading or dishonest statements by members of this place. They do so frequently. I think they ought to be held to account when they have been caught out in this way on the record falsely denying that words were used, and that is what this motion does.

Sitting suspended from 6.01 pm to 7.30 pm

MR SPEAKER: The question is that the motion be agreed to.

Mr Quinlan: Does anybody else wish to speak? I think I would prefer to speak late in the debate to defend what might be said. If we are going to have any outpourings, I would like to hear them.

MR SPEAKER: Excuse me. I would suggest that this is an important issue. At the moment there are 11 members of a 17-member Assembly in the chamber. The Assembly is debating a censure motion concerning two senior members of this chamber. I would suggest that the rest of you get down here as fast as possible. If you maintain and believe that you represent your constituents, then do so immediately.

Mr Stanhope: That's the sermon, is it?

MR SPEAKER: Mr Stanhope!

Mr Stanhope: I stand amazed.

MR SPEAKER: I am amazed as well that members of this place who purport to represent the electorate cannot be bothered to turn up to a debate on a censure motion. Mr Smyth, I believe you were wishing to speak in the debate.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (7.31): Mr Speaker, this is a serious matter. Both the Leader of the Opposition and the Deputy Leader of the Opposition have lied—one in denial of his words; the other in covering up by offering an alibi. They have been offered the opportunity to apologise and withdraw, and they have not.

Mr Stanhope: When? That's a lie.

Mr Quinlan: On a point of order, Mr Speaker: I am not sure, so I need your guidance. Is it permissible for Mr Smyth—

Mr Stanhope: Well we will get up—

MR SPEAKER: Excuse me. Mr Stanhope, would you mind being quiet.

Mr Quinlan: In the context of the motion, is it parliamentary for Mr Smyth to say in this place that we have lied?

MR SPEAKER: No. Let me just explain—

Mr Quinlan: I am asking.

MR SPEAKER: Thank you. Let me just explain the situation please, Mr Quinlan. The censure motion is in fact about somebody. The Speaker will not involve himself in somebody misleading or lying to the Assembly.

Mr Berry: No, it's not.

MR SPEAKER: Just a moment, Mr Berry. Would you sit down. This is what we are talking—

Mr Berry: No, we're not.

MR SPEAKER: Mr Quinlan, this is a debate. There is going to be a lot of criticism across the chamber about this issue, but unfortunately the censure motion relates to the fact that somebody was not honest in their comments.

Mr Berry: It doesn't say "lie".

MR SPEAKER: I do not want to argue semantics, thank you very much. I want this matter resolved as soon as possible. We have a great deal of work to do tonight and perhaps tomorrow morning. I am sure that the electorates we represent would prefer us to get on with the legislation that is before us. I accept the point of the Assembly that this is an important matter that needs to be debated. May I suggest that we get on with it.

Mr Berry: Mr Speaker, on the point of order: I agree with you, Mr Speaker.

MR SPEAKER: There is no point of order, but go on.

Mr Berry: I have not said anything yet.

MR SPEAKER: That is my comment from the chair.

Mr Berry: Okay. I don't mind people referring to the substantive motion. I raised some concern about it earlier and somebody said, "Well, the words 'dishonest denial' are in the motion." But the motion does not contain the word "lie". If you want the people over there to elevate the issue along those lines, I am sure that there is a more—

Mrs Burke: You are not going to belittle this, Mr Berry.

Mr Humphries: What is the difference between "dishonest denial" and—

MR SPEAKER: Order! Mr Berry has the call.

Mr Berry: Your usual course, Mr Speaker, is to stick to the substance of the substantive motion rather than let people stray all over the place with different forms of description which might suit their blood pressure at the time. So, Mr Speaker, what I ask you to do is make people stick to the words which are contained in the substantive motion.

MR SPEAKER: Thank you, Mr Berry.

Mr Hargreaves: Mr Speaker, I do not want to debate this issue, but Mr Smyth just inferred that Mr Stanhope had told a lie, that Mr Stanhope had refused to withdraw something. Mr Speaker, you did not ask him to withdraw anything, neither did the Assembly. If Mr Smyth is going to talk about this sort of thing, I ask him to at least get the facts straight. Mr Speaker, I ask you to uphold the point of order.

MR SPEAKER: Thank you, Mr Hargreaves. I say again that I am not going to get involved in these matters. That is what brought this on in the first place. I am asking the member of the government who made the comments referred to by Mr Hargreaves to withdraw them now.

Mr Moore: On the point of order, Mr Speaker: we do not use the term "lies" except in a substantive motion. This is the very thing that we are debating now.

MR SPEAKER: Order! I am tired of this and I am sure that most other members are as well. *House of Representatives Practice* states:

> Although a charge or reflection upon the character or conduct of a Member may be made by a substantive motion, in expressing that charge or reflection a Member may not use unparliamentary words.

If you have used unparliamentary words, withdraw immediately.

MR SMYTH: Mr Speaker, I withdraw.

MR SPEAKER: Thank you.

MR SMYTH: Mr Speaker, they have been dishonest, one in denial of his words—

Mr Stanhope: On a point of order, Mr Speaker.

MR SMYTH: That is what this is about.

Mr Stanhope: No, this is about a substantive motion moved by the Chief Minister.

MR SPEAKER: Just a moment.

Mr Stanhope: Mr Speaker, on a point of order: the suggestion has been made again that I have been dishonest.

MR SMYTH: That is right.

Mr Stanhope: You have ruled that that requires a substantive motion. There is no substantive motion in place which suggests that I have been dishonest or that I have lied. The comments are out of order. Suggestions that I have lied or that I have been dishonest need to be made through a substantive motion. No such substantive motion has been moved.

Mr Humphries: I think it is there in the motion.

Mr Stanhope: It is not there. Mr Speaker, the motion says:

> Censures Mr Stanhope for failing to provide leadership on, and uphold among his party, acceptable standards of parliamentary conduct and honesty and due respect for the status of women.

There is no suggestion in the substantive motion that I have lied or that I have been dishonest. Withdraw.

Mr Humphries: Read the third dot point of the motion. Read that out aloud.

MR SPEAKER: Order! Just a moment please.

Mr Humphries: Can I speak to the point of order?

MR SPEAKER: Order! There is no suggestion in the motion that Mr Stanhope has lied.

Mr Humphries: Mr Speaker, can I address you on that point?

MR SPEAKER: You may. You may talk about failing in leadership; certainly you may talk about upholding among his party acceptable standards. But the motion does not contain the word "lie".

Mr Humphries: There is no word "lie" in respect of Mr Quinlan, either, Mr Speaker.

MR SPEAKER: No, indeed.

Mr Humphries: But the third dot point is the relevant dot point. The assertion made in this motion is that Mr Stanhope rose to his feet and claimed to remember proceedings, and that that recollection of proceedings was inconsistent with the *Hansard* which showed the words that were used. He claims, Mr Speaker, as I indicated in my presentation speech, that he was discussing me. But, Mr Speaker, he made reference to a "condescending, bloody woman". So the clear implication of this motion is that Mr Stanhope also fibbed, lied, was dishonest. Whatever you want to say about it, that is the clear implication of that motion. If members are unclear about it, then I am happy to amend the motion to make that quite explicit. That is clearly the implication of the motion, Mr Speaker.

I quote again from the third dot point:

> … claimed to remember the proceedings well enough to aver that Mr Quinlan had not made the remark;

The next dot point reads:

> that an examination of the audio recording of proceedings clearly reveals that Mr Quinlan did make the remark recorded in the draft Hansard;

He was either seriously mistaken or he told a lie. Mr Speaker, in the circumstances of this motion, it is quite clear we are alleging that he told a lie.

MR SPEAKER: The word "lie" does not appear in the motion. Mr Smyth, please withdraw the word "lie" and continue with your dissertation.

MR SMYTH: I have already withdrawn the word "lie".

MR SPEAKER: Thank you.

MR SMYTH: If you wish me to withdraw the word "dishonest", which appears in the motion, I will do so.

The point here is that this is the pair that purport to lead the alternate government, and yet they have left a permanent stain on the record of their Assembly by this groundless attack and the use of the words "condescending, bloody woman". This is the body that represents the women of the ACT. Yet we have the comment "condescending, bloody woman" being made and then a denial that it was made. It is quite clear on the audio recording that it was said. The alibi was offered that it was not recalled. They both should be censured; they both deserve to be censured.

Mr Humphries: Mr Speaker, I seek a clarification of your ruling. Are you ruling that the word "lie" needs to appear in the motion if it is used in respect of something said by another member, or are you saying the use of the word "lie" is unparliamentary under any circumstances at all?

MR SPEAKER: I will report on that shortly.

MR OSBORNE (7.42): Mr Speaker, I, like other members, have had a chance to listen to the audio recording over the break and, having conferred with some members of Hansard, Keith Ryder in particular, I do not think the sound is clear enough to justify this place censuring Mr Quinlan, tempting though that may be.

If he had said "woman", I would expect him to apologise. But I think we need to be fair. I spoke again to the Hansard officer and he said that Mr Quinlan suggested that he could have been about to say "wanker". When you put it in the context of—

Mr Humphries: What did he say?

MR OSBORNE: Exactly, and that is the question, Mr Humphries. Mrs Burke may well believe that he said "woman". I hope he did not. But I have listened to the audio recording and all I could hear was "condescending, bloody wo". Given the facts and given the evidence, I do not think it is clear enough from my perspective to support a censure motion. But Mrs Burke seems convinced that he did use the word "woman". She is now claiming that she heard him say "woman". I suppose I will sit down and listen to what she has to say.

I do not think it is fair that we should base our decision to censure Mr Quinlan on the copy of *Hansard* when the audio recording is not clear. I would imagine that if Mr Quinlan had said "woman" he would, as he indicated earlier today, withdraw that word. He offered an apology but then withdrew that because he was not sure of what he said.

We can sit here for the next two hours arguing over this point. Mr Speaker, as members on the crossbenches will have to make a decision eventually, I thought I would stand up early in the debate and let you know where I am at. I have listened to the audio recording and, on the basis of what I heard, I am not prepared to support the censure motion.

MR SPEAKER: Thank you, Mr Osborne. I advised the Chief Minister that I would comment on a ruling I made. I refer again to the following statement on page 476 of *House of Representatives Practice*:

> Although a charge or reflection upon the character or conduct of a Member may be made by a substantive motion, in expressing that charge or reflection a Member may not use unparliamentary words.

I have ruled, and some of my predecessors have ruled, that the word "lie" is unparliamentary.

MS TUCKER (7.45): The first thing I have to say, of course, is that I do not like sexist language being used in this place. I do not like insults being made. I think we all understand that this is unparliamentary, et cetera, et cetera. It appears that we are being asked to make a judgment about what particular words were used. I was not in the chamber when the exchange took place. I have listened to the audio recording and I have talked to Keith Ryder. He said that as a professional Hansard person he would have rendered what was said as "condescending, bloody—", because it is not clear enough. Also, I see that Mrs Burke said that she thought Mr Quinlan had said "condescending,

bloody fool" to the Chief Minister. So the words set out in the censure motion do not seem to fit the context of what happened. There are inconsistencies.

I have no idea what happened, and there is no way I can know. So, I am not prepared to make a decision to support the motion. I respect Keith Ryder's view as a professional Hansard person. Mr Quinlan and every other member have the right to look at the draft *Hansard* and say, "That's not what I said. Remove it." We all have that right. We all get draft *Hansards* and we have the right to say, "No, that's not right." With respect, how many ridiculous words have other members found? People are doing their best but sometimes words are printed that are totally wrong. I am sure every single person in this place has had that experience. So taking that experience into account, you cannot expect members who were not in the chamber to make a judgment. Particularly after listening to Mr Ryder, I feel I certainly cannot.

On the question of Mr Humphries and others in this place taking the high moral ground on this matter, I clearly remember Mr Humphries often making cat claws and all sorts of sexist gestures across the chamber, directed not at me but at women members of the Labor Party. That was very offensive. During my last speech earlier today Mr Moore constantly interjected that I was condescending or I was self-righteous or something. I am a woman, so he was calling me condescending or self-righteous. I am not going to hold up the whole parliament over that. This is what happens, I do not like it, we are used to it, and people get upset. I think it would be much better if we moved on and did some serious work in this place.

MR KAINE (7.48): Mr Speaker, I will speak briefly so that everybody knows where I stand. I will not be supporting this motion. I think that Mr Osborne and Ms Tucker have made the points sufficiently strongly. It staggers me that, although we are expected to sit another six days to deal with 50 significant bills listed on the notice paper which the government and the Chief Minister think are important, the Chief Minister has been slinking around checking the *Hansard* to see whether somebody used a nasty word. Then he comes in here and, on the basis of no evidence at all, according to Mr Osborne and Ms Tucker who have both heard the recording, accuses people of using words which nobody else can hear.

Mr Speaker, I think the whole thing is damn pathetic. I just cannot believe that we are playing such sandbox politics when we are just weeks away from an election, days away from the last sitting of this place, and we have to deal with legislation listed on the notice paper which the government thinks is important. Mr Speaker I think we should put the matter to the vote, get it out of the way, and let the government get down to some of the real business of what they think is important.

MR QUINLAN (7.49): I would like to concur with Mr Kaine that we should get on with business. I will not be taking a great deal of the time of the house in speaking to the matter that is before us. I want to make only a couple of points. First of all, if you read the *Hansard* it is quite clear that if I made any derogatory comment at all it was to Mr Humphries. It was Mr Humphries who was on his feet; it was Mr Humphries who, as I saw it, was being condescending.

In order to make his convoluted case, Mr Humphries said that there had been "tension between Mrs Burke and Mr Quinlan". The only tension existed after the remark. I have looked at the *Hansard* and Mrs Burke is not on the radar. I have listened to the audio recording and, yes, it is indistinct and I happily admit that if you were a Hansard reporter probably the best word you could have found for the noise you heard was "woman". Why I would call Mr Humphries a woman, I don't know. I have seen him in the *Canberra Times* with a pinny on making pink macaroons, but that is his habit, that is his choice.

If anybody bothered to read the *Hansard* they would see that there is no logic in the assertion that I addressed the remark to Mrs Burke. Forget all the rest. I am disappointed and I feel sorry for you, Mrs Burke, that you have been inveigled into this process. Both you and Mr Hird are in the background of the audio recording during the speech made by Mr Humphries. Mrs Burke is saying, "He should withdraw that. He said 'bloody fool'." Harold is also on the audio recording—not in *Hansard*—saying, "Yeah, bloody fool." I challenge anybody to go back and listen to the tape. If you do, you will hear those words. If a certain channel is played you will hear what was said by the two people behind Mr Humphries. I have requested Hansard—this will not be done in time for the purposes of this debate—to produce an elongated transcript of what happened so that we can know what was said. It is quite clear that what Mrs Burke heard was that I called the Chief Minister a "bloody fool". There are two points in that: one, that I was referring to the Chief Minister; and, two, the word she heard was "fool".

Mr Humphries: But you denied it.

MR QUINLAN: I do not claim to have said "fool" either. If you want to ask me to withdraw something, get it right. I cannot remember exactly what I said. I think I was going to swear at you and I said "condescending, bloody"—what you call a minced oath. I think I was going to say "wanker" but I am not sure. Certainly, if you listen to the three words "condescending, bloody woman", the last word is far less distinct than the other two. I concede that the nearest English word you could find to that noise—

Mrs Burke: You know what you said.

MR QUINLAN: But it is a noise rather than a word. Go and listen to the tape. If you listen to the background conversation you will hear Harold and Mrs Burke talking about Mr Quinlan and saying "bloody fool". I did not say that either—I think I actually stifled a naughty word.

I would like to stop at this point because I think this whole exercise is wasting the time of the Assembly. It is purely politics; it is grubby politics. I want to stand here now and apologise to Mrs Burke because I did in fact say to her in the stairway after this motion was circulated, "If you want to play grubby politics, I'll play it as well." I withdraw that because I do not intend to descend to the level of politics that you have descended to today.

MRS BURKE (7.53): Thank you, Mr Quinlan. I am glad that you brought up the issue in the stairway, and I accept your apology. However, you have brought this debate down to a very low level. You know exactly the spirit in which this matter has been raised. You know what you said and you will have to live with that.

MR RUGENDYKE (7.54): Mr Speaker, bringing a censure motion before this Assembly is a very serious step to take. We have seen quite a few censure motions during this term and, as I have said before in this chamber, the bar for moving censure motions and no-confidence motions is set quite high.

I listened to the audio recording and I thought I heard the words "condescending, bloody woman". Mr Speaker, while recognising that it is serious to be condescending towards women and that such behaviour should not take place in this chamber, I think it is quite sad that this matter has been raised in this way.

There is a page and a half of business on the daily program that we should be getting through. I think there are three people in the gallery at the moment and they will be wondering what is going on. Before the dinner break, Professor John Warhurst was in the gallery. What a disgraceful performance for these people and for Professor Warhurst to witness.

Mr Speaker, I do not know what more there is to say about this, except that the level of debate needs to be elevated as well as the bar. Given the amount of work we have to get through, it is quite sad that we should be debating such matters.

Question resolved in the negative.

Papers

MR MOORE (Minister for Health, Housing and Community Services): For the information of members, I present the following papers:

Hepatitis C—Lookback program and financial assistance scheme report as at 30 June 2001.

Information bulletins—

Calvary Public Hospital—Patient Activity Data—May 2001.

The Canberra Hospital—Patient Activity Data—May 2001.

Health Regulation (Maternal Health Information) Act—3rd quarter report 2000-2001.

Subordinate legislation (including explanatory statements, unless otherwise stated)

Subordinate Laws Act, pursuant to section 6—

Animal Welfare Act—Animal Welfare Regulations 2001—Subordinate Law 2001 No 26 (No 31, dated 2 August 2001).

Government Procurement Act—

Appointments of Chairperson, public employee members and non public employee members to the ACT Government Procurement Board—Instrument No 207 of 2001 (S52, dated 1 August 2001).

Procurement guideline—Approved procurement units—Instrument No 214 of 2001 (S56, dated 8 August 2001).

Health and Community Care Services Act—Determination of fees and charges—Instrument No 201 of 2001 (S50, dated 25 July 2001).

Land (Planning and Environment) Act—

Criteria for the direct grant of crown leases to community organisations—Instrument No 223 of 2001 (S56, dated 8 August 2001).

Declaration of pest plants—Instrument No 204 of 2001 (No 31, dated 2 August 2001).

Determination of conditions for the grant of further rural leases—Instrument No 224 of 2001 (S56, dated 8 August 2001).

Determination of criteria for community organisations—Instrument No 210 of 2001 (S53, dated 3 August 2001).

Determination of criteria for older persons' accommodation—Instrument No 211 of 2001 (S53, dated 3 August 2001).

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

Member—Instrument No 205 of 2001 (S51, dated 27 July 2001).

Chairperson and Member—Instrument No 206 of 2001 (S51, dated 27 July 2001).

Road Transport (General) Act—

Declaration—Road transport legislation not to apply to certain roads and road related areas—Instrument No 202 of 2001 (S50, dated 25 July 2001).

Determination of a fee for the issue of a restricted taxi operator's licence for a wheelchair accessible taxi—Instrument No 213 of 2001 (S54, dated 6 August 2001).

Utilities Act—Variations to contestable work accreditation code—Instrument No 203 of 2001 (No 31, dated 2 August 2001).

I ask for leave of the Assembly to make a brief statement concerning instrument No 211 of 2001—determination of criteria for older persons' accommodation.

Leave granted.

MR MOORE: I thank members. Mr Speaker, I wish to speak very briefly about the disallowable instruments that have been tabled which permit the direct sale of land for older persons' accommodation and community organisations.

On 13 July Mr Smyth outlined a range of commitments that this government had commenced to address the concerns of older Canberrans. This included releasing details of sites that were identified for older persons' accommodation. The intention of the program is to encourage the delivery of housing suitable for older persons' accommodation. This will be achieved either through a direct sale of the land or by way of a competitive process.

To facilitate the direct sale of the land, a new Disallowed Instrument No 211 is proposed. The new instrument will replace the instruments that have been used for the direct sale of land for older persons' accommodation. The new disallowed instrument enables the direct sale of land to both community and commercial providers of older persons'

accommodation. There are existing disallowable instruments which apply to community and commercial organisations. The new disallowable instrument will provide greater transparency through all the criteria being in one instrument.

The government has recognised the need to encourage the development of older persons' housing on leased land by applying a 50 per cent remission on the change of use charges. It proposes to extend this policy to the amount to be charged for the direct sale of land to community organisations as well as government agencies that provide older persons' accommodation. Commercial operators will need to apply for a concession on the amount to be charged for the land.

Further changes are proposed to the payment arrangements. It will be possible to pay for the land as either a premium or as land rent. If a premium is paid it will be possible for the payment to be staged. As with land rent leases, it will be possible to pay out the land rent if that option is chosen.

Because of the new disallowable instrument for older persons' accommodation, the existing disallowable instrument for the direct sale of land to community organisations is being amended.

Mr Speaker, the number of older people in our community is increasing. They rightly expect the government to put in place policies that will support them. This government has done much to meet this challenge. The new disallowable instrument and charging policy are another important element of the government's commitment in this area.

Planning and Urban Services—Standing Committee
Report No 79

MR HIRD (8.01): Mr Speaker, I present the following report:

> Planning and Urban Service—Standing Committee—Report No 79—Proposals to duplicate Fairbairn Avenue, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, in June this year the Standing Committee on Planning and Urban Services decided to seek a public briefing by officials of Urban Services and the Fairbairn Avenue Community Action Group on proposals to duplicate Fairbairn Avenue. We took this action after becoming aware of the concerns of local residents in relation to this proposal.

At this point, Mr Speaker, I would like to thank the Minister for Urban Services for agreeing to make officials available to the committee, as well as members of the action group for appearing before and giving written evidence to my committee.

The committee has noted the unanimous view that action is needed to improve Fairbairn Avenue. Specifically, this action needs to address traffic volumes, road safety, local access and noise problems. The committee is extremely pleased with the current signposting program designed to encourage heavy vehicles away from Fairbairn Avenue. We also look forward to the results of the Majura Valley Transport Study as a means of improving the Fairbairn Avenue situation.

In this respect, we draw the attention of members to recommendation 20 of our report No 67 into the Gungahlin drive extension, tabled in this house earlier this year. This recommendation is that "the ACT government, in conjunction with the federal government, commence design work for a permanent grade-separated interchange of Majura Road, Moreshead Drive, Pialligo Road and the Dairy road". We continue to believe that this work will provide the best solution to traffic problems in this area, as it would provide greater incentive for vehicles to bypass not only Fairbairn Avenue but also Limestone as a travel option.

We also welcome the current examination of a Northcott Avenue-Constitution Avenue option. We accept that all these options will be thoroughly examined in the preliminary assessment which is being undertaken of the Fairbairn Avenue proposals. We emphasise the need to explore all options before a decision on the duplication of Fairbairn Avenue is made.

We as a committee see it as appropriate that our successors on this committee in the new parliament should continue to monitor this issue and ensure that residents who are affected will continue to be closely consulted. This is the usual procedure of my committee. A lot of effort and thought has gone into this report and I am delighted that I and my colleagues Mr Rugendyke and Mr Corbell have made a unanimous decision.

I commend the report to the house.

Question resolved in the affirmative.

Discharge of order of the day

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (8.06): Mr Speaker, pursuant to standing order 152, I move:

> That order of the day No 1, Executive business, relating to the Cooperatives Bill 2000 be discharged from the *Notice Paper*.

The Cooperatives Bill 2000 has been superseded by the Cooperatives Bill 2001.

Question resolved in the affirmative.

ACTION Corporation Bill 1999

[Cognate bill:

Road Transport (Public Passenger Services) Bill 2000]

Debate resumed from 7 August 2001, on motion by **Mr Smyth:**

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No 3, 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 2 they may also address their remarks to order of the day No 3.

MR OSBORNE (8.07): Mr Speaker, this is a black day for public transport in Canberra. This is a move that I fully expected from the Liberal Party who are entrenched in their belief that government is a business. So, on that score, I am not all that disappointed in them. However, I still cannot believe that the Labor Party are going to vote this stupid proposal through.

Mr Speaker, I will be voting against this legislation. I have appealed to ACTION staff to reconsider their support for this bill. I reminded them of their mates who used to work for Totalcare. I reminded them of the lack of ministerial accountability over the bungled hospital implosion. I reminded them that from now on the decisions affecting them would not be made in the open forum of parliament but behind closed door by a faceless board of directors, and I asked them if this was what they thought they were voting for.

Mr Speaker, I have said several times in past debates, and with the election almost upon us it is timely to say it again to the two major parties, that government is not a business; it's about providing services. While it is one thing to strive to be businesslike, it is quite another to force legitimate service-oriented agencies like ACTION into becoming a business in their own right.

This move does nothing to enhance public transport services to the public, nothing to improve accountability, and nothing to improve the lot of workers. Instead, Mr Speaker, it has the potential to make the whole community greatly worse off.

I have yet to hear one valid reason why this bill should be passed. I do understand that operating ACTION as a statutory authority will lead to more industrial disputes, reduced services, less staff, lower wages and, one day eventually, privatisation.

Despite their protests, at times like these both the Liberal and Labor parties are really no different from each other, except for some, Mr Speaker, I am sure.

Mr Berry: I don't need your help. I'll be right.

MR OSBORNE: Mr Berry says, "I don't need your help, I'll be right." I thought I would include that in *Hansard,* Mr Speaker. One of the functions of this new authority, as stated in clause 5 (b), is "to operate on a sound commercial basis". I have been here a relatively short time, 6½ years, and I have yet to see ACTION operate on what most sensible people would consider a sound commercial basis. It is about providing a service, Mr Speaker.

What is going to happen? I know these wonderful guarantees have been given. In my opinion they amount to nothing more than a bribe to bring the workers along, Mr Speaker, because they have lived in fear for a number of years. They have offered them a guarantee of X number of years. ACTION has been guaranteed five years of services, I think. What is going to happen when that time is up? I add, Mr Speaker, that there are a number of triggers in the act which would cause those guarantees to end.

What will happen, Mr Speaker, is that this faceless board will be making decisions on the less productive runs. They are going to be the first to go. The minister will say, as we have heard in the past about Totalcare and Actew, that it was the board; the board did it. It was the Actew board, or it was the Totalcare board. They will start to look at some of the runs which are used by the poor and by the needy. It is going to be the runs from Calwell to the Hyperdome or Charnwood to Belconnen in the middle of the day when the parent or the older person who has not got a car gets on the bus, and the only means of transport is ACTION. There are only one or two people on the run. They are going to be the services that are targeted. They are going to be the ones that are put out to tender.

You do not need to be a Rhodes scholar, Mr Speaker, to realise that there are probably some of the smaller bus companies that could do it cheaper. In a couple of years time there is going to be a move to bring in Deane's or Transborder or Keirs or somebody like that to run these services. That is what is going to happen. The ACTION board is going to say, "We have to make some savings. We have to cut some services. We are going to tender out these jobs." That will be the first step towards the dismantling of ACTION.

I am greatly disappointed in the Labor Party on this issue, Mr Speaker. I am greatly disappointed that they have fallen for it. But, as I said earlier, I think the reality is that when you scratch beneath the surface on these types of issues the Labor Party and the Liberal Party are no different. I long for the days of the previous Assembly, Mr Speaker. I cannot believe that the Labor Party has moved so much in the last couple of years. I just cannot believe that the transformation has been so complete. Mr Quinlan puts his hands up. What a mistake, Mr Speaker.

Ms Tucker: It is interesting to see who is sitting in the chamber. Is this a coincidence?

MR OSBORNE: Ms Tucker says it's interesting to see—

Mr Hargreaves: You asked for it. You got it.

MR OSBORNE: I need a drink of water. Mr Speaker, my concern is that this is the first step. I am sure the government will stand up and say this does not mean privatisation, that it doesn't mean this and it doesn't mean that, but I will read a few quotes from *Hansard*. It seems to be the night for *Hansard*.

Ms Tucker: Be careful now.

Mr Quinlan: Yes, be careful. Has it been checked?

MR OSBORNE: This has been checked. This is from when Actew was corporatised, the same type of thing. I will read some of the things that were said by the proponents of that. I quote:

> With regard to structuring our public utility … we have chosen to introduce a corporatisation model rather than privatisation. This is a deliberate commitment to maintain essential infrastructure in public ownership for the benefit of the community.

How long did that last, Mr Speaker? I have got more. Here we go:

> If you see this as a staging post towards privatisation, it would be that only if it were seen by members of the community as showing up the need on ACTEW's part for there to be a more efficient operation, one which could not be delivered under government control; but that is not the position we are in today.

I might as well withdraw the word "Actew" and put in "ACTION". The quote continues:

> We believe that ACTEW—

ACTION—

> needs to be retained by the government sector; and it will be, under this model. It is quite false and dishonest for those opposite—

those few on the crossbench rather than those opposite—

> to suggest that this is in fact some form of clandestine privatisation.

There is more, Mr Speaker. I quote:

> Let me start by saying that my own concerns go way beyond the simplistic slogans we hear about this being just some form of privatisation. As far as I am concerned, that is simply nonsense.

There is plenty more, Mr Speaker, but I will sit down and listen to the debate. I look forward to hearing some good ideas. Mr Kaine said to me this morning that he thought I was looking forward to the former minister standing up and telling me why this needs to be done. I want to know how he can guarantee that the workers are going to be better off under this new model; how everything that has been offered now to them cannot be delivered with ACTION staying where they are.

Mr Speaker, it has been funny because we have had a number of phone calls to my office today from ACTION bus drivers who have said, "Well, we were not quite aware that that is what has been proposed. If we had known that we would have voted the other way."

I really fear for the future of ACTION, Mr Speaker. I really fear for those services that are utilised by the most needy, the most vulnerable in our community, because, take my word for it, they will be the first ones that are targeted. It will not be next year; it will be further down the track, Mr Speaker. They are the services which will go. They are the jobs which will go. I hope I am proven incorrect, Mr Speaker, but I only need look at the history of this place and the history of the bodies that have been corporatised, or turned into authorities, whatever cute little term you want to give them. I understand the Labor Party have decided to change some of the terms to appease their consciences somewhat, but the fact remains that this is the first step towards the end of ACTION. This will be a day that the unions and the Labor Party will regret.

I look forward to entering the debate later on some of the amendments that have been negotiated between the two major parties. I understand that there has been some agreement. I just want to make the point, Mr Speaker, that the union and their workers in particular have been conned. They have accepted the bribe. They have been placed in a position of fear. They have been forced to make this decision, and it is a regrettable one.

MR KAINE (8.19): It is interesting that Mr Osborne challenges me to put forward the government's arguments as to why this is a good deal or why it is not. I do not propose to do that, Mr Speaker. However, I do begin from the premise that I agree in principle with what the government is proposing to do here.

The reason why I do that is that after long experience in this place, and for some years of that as a minister, one of the things that concern me about ACTION is that there is nobody at the moment who is charged with strategic thinking in connection with this operation. You have a very effective chief executive officer down there who is responsible for the operations of ACTION and he does that very well. I think I have a bit of an echo in the background, Mr Speaker.

MR SPEAKER: Order! I will not tolerate interjections from the gallery. Interjectors will be removed. Think about it, gentlemen.

MR KAINE: The fact is that it is the government that should be providing the strategic thinking and the strategic plan for the public transport network in Canberra, and at the moment it is not doing that. It seems to me that if you corporatise this body and put a good board in to run it, you then have the capacity not only to run the operation but also to do that strategic thinking and develop a strategic plan for the future, perhaps thinking even 10 years or more ahead. Some people might say that that is not terribly important, but I believe it is.

I have had a careful look at this bill and I have had a look at what the functions of the board will be. Interestingly enough the bill does not talk about a bus network. The first function that this board will have is to provide an effective public transport network. That need not necessarily be confined to buses. I believe that we are long past the stage where our strategic planning for a network in Canberra ought to go way beyond buses. I do not see that you would ever do away with buses entirely, but I believe it is time that we had on the table a plan for a transport network that goes way beyond buses. The buses may provide a feeder system—we should not do away with them entirely—but I do not think we can continue to work on the basis that buses alone are going to meet the increasing needs for transportation in this city. That has not worked anywhere else in the world, and I do not believe it will work here. So I think any expectation that our bus network is going to continue to meet our needs is fallacious.

I believe that a good corporate board, with a business background, including expertise on public transportation systems, can develop a strategic plan for a transport network that will far exceed anything that is on the drawing board at the moment. That, to me, is the major attraction of the notion of putting the management of this organisation at arms reach from the government. I suppose it might be a bit overstating the fact, but it seems to me that you put it beyond the reach of the dead hand of government and put it in the hands of people who are capable of some strategic thinking and some innovative thinking.

Mr Osborne seems to think that corporatising this operation will sound the death knell of ACTION buses. I do not know why he takes that pessimistic view because, no matter what sort of a strategic plan we develop for a future transportation system, it is clear that we are going to be relying on buses for some years to come. You do not conjure up a light rail system or some other system overnight; it is going to take quite a while. So we will be depending on the bus system. That means to me that there is no way that the government, even if it wished to, could severely dislocate the existing organisation or the existing work force. Mr Osborne is somehow of the belief that the minute we corporatise this operation it is going to fall apart at the seams, people are going to lose their jobs, and conditions of service are going to be eroded. I just do not understand why he would think along those lines.

There are some aspects of the bill that do concern me. I notice, for example, that it does not seem to be the intention of the government that this corporation will come under the provisions of the Territory Owned Corporations Act 1990. I wonder why it is being excluded from those provisions. As far as I can see, the only reference to the TOC Act of 1990 is in clause 37 where it refers to taxation. I do not understand the government's exclusion of this proposed corporation from that act. Perhaps the minister can explain why he does not think it should fall under the auspices of that act.

I suppose the one thing that concerns me most, and I think it has been referred to by somebody else, is the heavy emphasis on putting this bus system on a commercial operating basis. It is not, it never has been, and it cannot be in its present form. It has been a notorious consumer of public money, and I do not see how we can operate a bus service into the foreseeable future without it continuing to be a consumer of public money. So how can we say that we are going to set up a corporation to manage this system and make that corporation operate it on a commercial basis?

The only reference to finance really is that any dividend from this operation will be payable to the government. Well, I do not know where the dividend is going to come from. What the bill is silent on is this question of financing the activities of ACTION. Are they going to say, for example, that from next year there is going to be no more public money put into it from the budget? If that is the case, where do they expect the money is going to come from to continue to finance the operations of ACTION? I cannot see any commercial operator or any private organisation putting into the ACTION bus system the money that is going to be required on a continuing annual basis as far into the future as you can see for the time being. It simply is not a commercial operation, and nobody is going to accept it as such.

I guess the other thing that bothers me and that I think needs to be clarified is the question that seems to be bothering Mr Osborne, and that is the ability of this board to sell the assets—either to sell it as a going concern or to dispose of any of the assets of the corporation—because the bill provides that the disposal of assets can be put into effect with nothing but the Treasurer's approval. We have been through the ActewAGL deal and most people in this place, I suspect, felt that that decision should have rested with the Assembly, not just the Treasurer. Yet here we have another significant public asset which the government proposes to transfer to a corporation and the assets can be sold merely with the approval of the Treasurer.

I think it needs rather more than that if people like Mr Osborne and others are to be satisfied that the public interest in those assets is going to be maintained. I would suggest to the minister that he needs something rather stronger than the provision that the assets cannot be disposed of except with the Treasurer's approval. I think it requires far more than that.

So, Mr Speaker, there are some aspects of the bill that trouble me. I think changes need to be made, but I am not concerned, as Mr Osborne seems to be, that the whole operation is going to fall apart the day after we corporatise it and people are going to lose their jobs and their entitlements to conditions of service and the like. That simply is not going to happen because the nature of the operation is not going to change simply because we transfer the responsibility for management to a corporate board.

I support the principle of what the government is proposing here, and I think there are valid reasons for doing so, but I am not going to respond to Mr Osborne's challenge to justify it. That is the government's job. It is the government's proposal, and if Mr Osborne has questions about that he should be asking the minister, not me. But I do support in principle what the government is proposing. We will worry about the detail when we get down to the detail stage of debate.

MS TUCKER (8.28): These two bills are a package that set up a new regulatory and administrative framework for the operation of bus services in Canberra. The Road Transport (Public Passenger Services) Bill sets up a new system for the accreditation of all public bus services in the ACT. The bill also allows the government to enter into service contracts for the operation of regular route services in the ACT which will specify minimum service levels. ACTION will be required to have a service contract as well as the private operators that pick up and set down passengers in the ACT, such as Deane's Buslines.

To allow ACTION to fit within this new framework, the ACTION Corporation Bill will transform ACTION from a business unit within the Department of Urban Services into a separate statutory authority managed by a board of directors. While the government is amending the bill to change its name to an authority, for all intents and purposes it will be acting like a corporation. Under its statutory functions it will be required to run on a commercial basis and maximise its return to the territory. It will have to have a business plan and pay tax equivalents back to the government.

While I can agree with the idea that all public bus services should be accredited and meet minimum standards in terms of passenger safety and the quality of service, this package goes way beyond this to establish a commercial framework for the provision of public transport in the ACT in line with national competition policy.

In the couple of briefings I have had from officials on these bills I have been assured there is no intention to privatise ACTION or any of the routes it operates. This may be correct in the short term, but this framework is the first step in this direction. ACTION has been guaranteed a five-year service agreement, but I am very worried about what will happen after this. I do not want a repeat of what happened with Totalcare when it lost its contract with ACT Housing to a private operator or what happened to CityScape Services when the government put out its horticultural services to tender.

The Liberal government showed that it was prepared to contract out the public transport system in the ACT when it was in dispute with the TWU a few years ago. It even put advertisements in the paper seeking expressions of interest. This new framework will facilitate such a move in the future. That is why Mr Kaine, Mr Osborne and I are a little bit cynical and suspicious.

Mr Kaine: Have faith.

MS TUCKER: It would take a great deal of faith, Mr Kaine. I think it would be unrealistic. It was interesting that in the briefing from officials that I received on these bills they made the point in defence of ACTION that ACTION currently has a natural monopoly on public transport in the ACT and therefore is not under threat. If this is the case, why do we need to have this competitive framework? The only reason I can see is a desire by this Liberal government to get more private sector involvement in bus services in the ACT. This may not necessarily involve privatising ACTION but is more likely to come from the transfer of particular routes from ACTION to private operators and allowing ACTION to wither away.

The Greens believe that the existence of an extensive, efficient and affordable public transport system is a basic and fundamental community service which government has an obligation to provide. Public transport should not be reduced to a business activity. Many people who cannot drive or do not have access to private vehicles rely on ACTION for their transport needs. For equity reasons the government should ensure that a good public transport service exists for these people even though in straight accounting terms the service may not cover its costs.

I have said many times in this Assembly that I find it amazing that spending on roads is always regarded as an investment by this government, and also, it appears, by the opposition, but spending on public transport is regarded as a cost or a terrible weight

on our budget and a subsidy. This thinking needs to be turned around if we are to achieve any sense of an ecologically sustainable transport system in the ACT.

It would be far more productive for the government to develop integrated transport strategies to increase bus patronage rather than hope that exposing ACTION to more commercial pressure will make it more effective. This is where I would be quite happy to agree with Mr Kaine. It would be very good to see a proper and integrated land use and transport plan developed by this government. I think we have been hearing about it for at least five years, probably even six or seven years. It was supposed to be part of the greenhouse strategy, of course, but what have they done? Instead, they have introduced the zonal one fare structure. That needs to be abolished. It is just crazy to have our buses running around town mostly empty. Putting up bus fares just discourages people from using buses.

The government needs to focus on making public transport more attractive than car travel for most common journeys rather than treating public transport as the poor cousin to private cars that only desperate people would want to use. Increased bus use has significant public benefit that cannot be easily quantified. It reduces traffic congestion and air pollution and gives Canberrans more transport choice. These benefits must be factored into the structure and funding of our public transport service.

I understand that the government has the numbers to get this legislation through, but I want to put on the record that the Greens are not supportive of this. We do not trust the direction the government is going. The government has shown absolutely no commitment to developing any kind of vision for transport planning in the ACT. From bitter experience we know that it cannot be trusted on these issues because we have seen it already with Actew. I think even Mr Osborne was reflecting on that. I recall that it was an election promise not to sell Actew, but my, how some promises do get forgotten.

MR HARGREAVES (8.34): I believe I am able to speak to the ACTION Corporation Bill and the Road Transport (Public Passenger Services) Bill all in the one go, so I will, Mr Speaker.

Firstly, I seem to remember Mr Rugendyke saying he is not going to vote for something because somebody did not beat a path to his door to talk to him about it. I want the record to show, Mr Speaker, that I offered to speak to Mr Osborne and his office about this legislation two days ago. That offer was accepted but nothing eventuated. I might have had an opportunity to give to Mr Osborne and his office the benefit of some experience that I have had in the public service. That is somewhat unique in the chamber at the moment. Nobody else in this chamber has the 30 years experience in the public service that I have. Nobody in this chamber has been in a transit lounge as often as I have. I thought I might take the opportunity to explain it. I will tell Mr Osborne my feelings now.

I believe the letter to the editor in the *Valley View* was a piece of hysterical nonsense, Mr Speaker. The history of the public service of the ACT is littered with people being privatised and organisations being sold off, or just abolished and then the service is picked up by the private sector. Just to correct the issue, Mr Osborne referred to all of the disastrous things that have befallen Totalcare. This side of the house does not

condone any of it. But, Totalcare is a corporation. It is not an authority, and there is a difference.

Mr Osborne: There is a lot of difference.

MR HARGREAVES: I was surprised that Mr Osborne does not know the difference between a statutory authority and a territory-owned corporation, but perhaps it is an ignorance borne out of political expedience, Mr Speaker.

Mr Osborne: Explain the difference to me.

MR HARGREAVES: I will explain the difference. One of the things that Mr Osborne did was put the frights up all of the ACTION bus drivers and their families by saying, "Your job is going to go." As Ms Tucker pointed out, under the current regime, where ACTION is a division or a subset of the Department of Urban Services, the biggest fright they got was when the minister advertised a tender for the private sector to run the system.

The current system is dangerous. If you do not think it is dangerous, come with me to the Tuggeranong depot and talk to the mechanics there. I will have to bring along the mechanics who no longer work there. Fourty per cent of them disappeared overnight.

Mr Osborne: There will be even less soon.

MR HARGREAVES: Let's talk about the privatisation of CityScape, Mr Osborne. CityScape is not an authority. It is not a corporation. It is a subset of the Department of Urban Services and it has been shrunk to a mere freckle of its former self. Why do you think that is? Because its status as a subsection is dangerous. We all know it.

Probably the only thing that we and Mr Osborne will agree on in this instance is that the term "territory owned corporation" is code for "for sale". If you give something corporation status that means that you set it up in such a way that it is an entire business operation created to provide a dividend back to the government and therefore it is a good entity to flog off. That is why we opposed the sale of half of Actew to AGL. We will oppose the privatisation of ACTION to our dying breath. Mr Osborne can hold up as many things as he likes, but his interpretations are political expediency and nothing else. He says he is disappointed in the Labor Party. Well, quite frankly, I do not care.

People talk about the guarantee from this government of putting money into ACTION. What makes you think for a moment, Mr Speaker, that the government cannot do what they like right now under the existing system? Of course they can. Under a corporation status they need give nothing and say, "You are on your own, Jackson."

Mr Speaker, when it comes to the ACTION set-up, we need to distinguish between that which is community service obligation and that which is an optional public transport system. We can do that within an authority. Mr Osborne is just playing silly political games. We want, as much as the government wants, and indeed Mr Osborne wants, to have ACTION functioning as a good public transport system.

Ms Tucker alluded to the fact that it needs to be a public transport system which encourages people out of their cars and onto the buses and onto bikes and all those sorts of things, and we concur with that. It needs revamping, and we believe that. I am not making any detrimental comments about the current people in the Department of Urban Services at all, but it could do with people on a board not dissimilar to the health authority board which existed in the past which had experts in the field who were constantly in the field and who guided the services. It is interesting that when the original health board was abolished the Canberra Hospital took a nosedive and a creation of another board in its place was too late. It was a terminal case.

Mr Speaker, the Labor Party is supporting the distinction of ACTION as a statutory authority because it creates an entity within the system. A corporation is totally divorced from that system. It takes ACTION out of being a subset of the department. It is still responsible to this Assembly through the annual reports and through the minister, but the minister does not have the political interference rights that he has when it is a subset of the department. Neither, I might say, does it have the abrogation possibility of territory owned corporations like it does at the moment. We notice that as a shareholder of Totalcare, the current shareholders just abrogated their responsibilities and tried to flog it off. That cannot happen with a statutory authority. A statutory authority takes it out of the meddling hands of the minister and puts it in the hands of professionals.

Mr Osborne says he is worried about what happens at the end of five years. We are all worried about what happens at the end of five years. The reality today is everything exists on a contract arrangement. Every single part of service delivery of this government and this public service is on a purchaser provider contract basis and that is the end of it. So the best you can have is a fairly lengthy contract. ACTION would have a contract whether or not it was a statutory authority or not. Having a five-year contract is as good as you can get at the moment. It is our preference that ACTION would be enshrined as the public passenger system, but if the next best option is to have a five-year contract we are going to grab it.

Mr Osborne: They offered them eight years a couple of years ago.

MR HARGREAVES: They also offered them nothing a couple of years ago when they were put up for tender. You can go and talk to those mechanics and drivers who lost their jobs in the process. They had to find them $10 million. That is not what I call a safety net. You are sitting hear and saying, “Let’s keep it the way it is,” and there are people who have gone. There are people who have lost their jobs under the current system.

Mr Osborne: Well, why can’t they offer them that now? Why can’t they give them five-year contracts now?

MR HARGREAVES: Mr Speaker, I am not going to engage in this piece of political hysteria.

MR SPEAKER: Not only will you not engage in it; you shall not.

MR HARGREAVES: I shall not.

Mr Osborne: Answer it.

MR HARGREAVES: I shall not and I will not, Mr Speaker, engage in this political ping—

MR SPEAKER: Mr Osborne, come to order!

Mr Osborne: I want to know why they can't do it now.

MR HARGREAVES: Name him, Mr Speaker. It hasn't happened yet.

Mr Osborne: Why can't they do it now, Mr Speaker?

MR SPEAKER: Mr Osborne, do you want me to name you?

MR HARGREAVES: Mr Speaker, I am not going to continue this hysterical ping-pong game.

I want to address my remarks to the Road Transport (Public Passenger Services) Bill. Mr Speaker, regardless of what sort of public bus service exists in this town, or even a private bus service plying their trade on non-public bus routes—for example, bus services which provide tourist services—this bill puts the standard up. It creates accreditation standards. There has been a lot of good work done on the part of the department, the union and all concerned in coming up with a set of standards for accreditation. If people want to oppose an accreditation standard, then all I can say is that they are afraid of quality assurance.

This bill covers all providers of public bus transport where a fare or other consideration is charged. It applies equally to all public and private sector providers consistent with competitive neutrality arrangements, and it establishes powers for the introduction and implementation of bus operator accreditation. If people oppose this it means there can be an open slather on bus safety. People who ply their trade as bus operators, be it tourism or on the major routes, will have certain safety standards, otherwise they do not get accredited, and that accreditation can be taken away from them if those safety standards are breached. Anybody who opposes those provisions is allowing for an open slather of unsafe standards. This bill creates enforcement standards and safety standards, and they are the strength of this bill. The bill introduces for the first time into the ACT a process of bus operator accreditation, and not before time.

Mr Osborne: What is the difference between a corporation and an authority?

MR HARGREAVES: Mr Osborne rabbits away and says, "What is the difference between a statutory authority and a corporation?" Mr Speaker, I offered Mr Osborne 48 hours ago an opportunity to come and talk to me. Mr Osborne not only ignored it; he said he would take me up on it. He did not darken the door. He did not beat any paths. As far as I am concerned, Mr Speaker, there are none so deaf as those that will not hear. Mr Osborne has made up his mind. It is a fat lot of use talking to someone with a narrow—

Mr Osborne: Well, just explain it to me. I am not very bright.

MR HARGREAVES: I am not going to continue my offer.

Mr Osborne: Explain it to me.

MR SPEAKER: Order! Mr Osborne, you are not in the locker room now. Behave yourself.

MR HARGREAVES: Mr Speaker, had it been a member of this side of the chamber who persistently defied your orders you would have warned them by now. The accreditation enhances the current level of passenger and community safety, as I mentioned, and it brings the ACT into line with other states. I have never been a fan of blindly following New South Wales standards, as the minister would well know, but in this case I concur. I think it is necessary. With the involvement of the minister in the national transport minister's forum, that is where we can address those consistency standards.

Mr Speaker, the Labor Party is committed to ACTION and its employees. It is committed to a public bus service and, as I said, if we had our druthers we would have it as the only public bus service. ACTION is the ACT's main provider of transport services. It must be encouraged to grow as the ACT's main bus service. It must be encouraged to grow. These bills are a way forward for ACTION. Mr Speaker, as I mentioned briefly before—

Mr Osborne: What's the difference? Tell me the difference.

MR HARGREAVES: The difference at the moment, as far as I am concerned, is that, as Ms Tucker said, we keep saying that ACTION must be on a commercial footing.

Mr Osborne: Tell me the difference.

MR SPEAKER: Order! Mr Osborne, if you wish to speak again you may stand and ask and I am sure your request will be granted.

Mr Osborne: I will have to.

MR SPEAKER: Mr Hargreaves has the floor at the moment.

MR HARGREAVES: Mr Speaker, there is a standing order about warning people.

MR SPEAKER: Indeed.

MR HARGREAVES: I ask you please, the next time this occurs, to treat Mr Osborne with the same courtesy as you treat me.

MR SPEAKER: I am sure Mr Osborne will observe what I said, otherwise next time—

Mr Osborne: I take a point of order, Mr Speaker. My interjections are because Mr Hargreaves offered to give me a briefing here today. I am completely focused on him. I have asked him. He has offered to—

MR HARGREAVES: What is the point of order?

MR SPEAKER: There is no point of order, Mr Osborne.

Mr Osborne: He offered me a briefing. I am listening. I am waiting to hear the difference between an authority and a corporation.

MR SPEAKER: Sit down. You will be given the opportunity to make the point afterwards if you wish to stand up and speak again. I am sure the Assembly will give you the right to do so.

MR HARGREAVES: Thank you, Mr Speaker. Mr Osborne was given the invitation two days ago and he chose to ignore it. That is bad luck for him.

The issue that I wish to raise now is that the provision of ACTION bus services falls into two parts. One is community service obligations and the other is a competitive optional transport system as an alternative to motor cars. We need to separate those two entities when we start judging ACTION's performance. It is not fair to have a public bus system which everybody expects to be provided and then to judge it for its commerciality. For the optional part of its services, certainly, we need to do that. *(Extension of time granted.)* Thank you very much. Had it not been for the interruptions I would not have needed extra time.

Mr Speaker, it is my hope that the board of an ACTION authority will present to the government of the day its performance in those two bites; that it will talk about quantifying its community service obligation and tell government what it believes the community has to pay to discharge those. We will judge them on that, separately from the optional bus service, and then we will then resource it. To say that an ACTION bus service, a public bus service, must be cost neutral is an absolute nonsense.

I believe we have the best bus service in the country, and we want to keep it that way by giving it political freedom. Take it out of the hands of a minister who put it out for tender and actually enshrine it. Mr Osborne's hysterical bleatings in the local magazine make absolutely no difference to me whatever.

Mr Osborne: Oh, come on Johnny.

MR HARGREAVES: You had your chance and you blew it.

Mr Osborne: That is just not true.

MR HARGREAVES: You blew it.

MR BERRY (8.51): My contribution will be brief. This legislation has been a long time in gestation and a lot of work has gone into it. There are specific amendments which prohibit the government from disposing of its main undertakings in this legislation by way of the authority. Of course, that can always be changed if you happen to have nine votes in this place. The issue here is whether or not matters can be done at executive level rather than with the support of this parliament.

Mr Speaker, "dispose of any of its main undertakings" is similar language to that used in the Territory Owned Corporations Act in relation to the acquisition and disposal of subsidiaries and undertakings. That sort of language is used in section 16 of the Territory Owned Corporations Act in relation to the disposal of its main undertakings. But there is another provision. That is to be deleted by amendments which are going to be moved by Mr Quinlan. Section 16 (4) of the Territory Owned Corporations Act says that a territory owned corporation or a subsidiary shall not dispose of any of its main undertakings, and so on, unless the Legislative Assembly, by resolution, has approved of the disposal.

Mr Speaker, that particular provision is relevant to what is going on out at the Williamsdale quarry because a significant asset has been disposed of without the approval of the Assembly, and I am advised that that is unlawful. Happily, that provision has been removed from this legislation, which would prevent a treasurer or a minister from taking this sort of action at all. It would be unlawful to do it. We have a somewhat shadowy history when it comes to unlawful undertakings in this place. We have the unlawful expenditure at the Bruce Stadium in our background, which would be of some embarrassment to the government. It certainly was a headline-grabbing mistake by the government which will go down in history as one of the hallmarks of a Liberal government in the ACT—unlawful spending of taxpayers' money.

I have some concern about other similarities to the Territory Owned Corporations Act which are not the subject of a requirement to report to this Assembly. This only came up in recent times because only in recent days have I raised this question with Mr Humphries. So far he has refused to give me an answer in relation to the matter. I raised the question of the disposal. Subsection 16 (1) of the Territory Owned Corporations Act says:

> A Territory owned corporation or a subsidiary shall not, without the prior written consent of the voting shareholders—
> … … ….
> (d) acquire, dispose of, mortgage, or give security over, a significant asset, or give a charge over the whole or a significant part of its undertaking or assets.

Subsection (3) says that where consent has been given in relation to a range of matters mentioned in that subsection it has to be brought to the attention of this Assembly, but not subsection 16 (1) (d) which relates to the giving of security over a significant asset. I have asked Mr Humphries questions about that and so far he has been avoiding bringing an answer to the Assembly in relation to it. I can understand why he does not want to talk about what is going on at the Williamsdale quarry because it is a significant embarrassment to the government.

There is similar language in the ACTION Corporation Bill which says that the corporation may not, without the Treasurer's prior written approval, sell or otherwise dispose of, or mortgage or otherwise give security over, a significant asset. There is no reporting requirement in the legislation. The Treasurer's behaviour lately suggests to me that we ought to be thinking about some further additions to the legislation to require the Treasurer to report to the Assembly any acquisitions, disposals or giving of security over significant assets, because, in the case of the Williamsdale quarry, something has happened out there and the Treasurer will not tell us what is going on. There is no requirement in the Territory Owned Corporations Act at this point requiring him to report. That does not prevent us from asking him questions, but, of course, the Treasurer really does not want to answer them. I think he is trying to bank on not having to answer the question before the 30 days runs out and we get into the caretaker period before the election and he will not have to tell anybody.

Without a satisfactory answer from the Treasurer in relation to this matter, we will have to keep in the back of our minds the requirement to put an additional requirement for reporting in relation to this matter. If we do not we will end up in the same sort of situation where there may be a mortgage or a giving of security over a significant asset which may escape the knowledge of this Assembly. As it is, the relevant minister, the Chief Minister and Treasurer in this case, is refusing to answer questions in relation to the Williamsdale quarry. Is anybody suggesting that he would be more kind in relation to this statutory authority with similar provisions? I think not, if he were to be embarrassed. That is the position which I think members ought to keep in their minds when considering the handing over of significant authority in relation to the restrictions on contracts and dealing with assets prescribed at clause 7 of the bill which is before the house.

I raise that, Mr Speaker, because it is a topical issue and it is one that is being unsatisfactorily responded to by the government in relation to its other major undertakings.

MR QUINLAN (8.58): The bill that I think will pass tonight will be the result of a considerable amount of work by ACTION, the government and the TWU in the early stages, and more latterly virtually a five-way interaction between the government, the TWU, ACTION, my office and Parliamentary Counsel. Members will have received a raft of proposed amendments, updated as of today, but there is nothing earth-shattering in those amendments as opposed to previous sets of amendments that have been circulated.

One of the keys, I think, to the acceptance by the workers within ACTION, by the TWU, has been the commitment by government to a five-year contract. I point out to the house that if this legislation is adopted and the five-year contract is negotiated and put in place, it is likely to be put in place some time next year, possibly even 1 July. That means that that contract will mature on 1 July 2007, which happens to be a few months before the election after the election after the next. So if there is any threat to ACTION and a change in format in ACTION beyond that point, I do not think there would be a great deal of difficulty for members of the Assembly, or aspiring members of the Assembly, to make a political issue of it. I rather think there is a certain degree of insurance for the long-term security of workers at ACTION and the long-term

security of ACTION as the primary public transport system in the ACT that possibly goes beyond the five-year term of the next contract.

I certainly do fear that fashionable progression of making a body a statutory authority and then moving to corporatisation and then to privatisation. I am quite sympathetic with some of the reservations that have been brought forward tonight in relation to the maintenance of the community service obligations of ACTION and the maintenance of control over their primary assets and their primary functions, and the need for that to be brought to the Assembly. If members review that suite of amendments that have been hammered out between the government and ourselves they will see that virtually all of the reservations that have been brought up in speeches hitherto have been catered for. If we happen to have missed one in relation to control over assets, we hope to be back to fix that if there is some loophole.

I will not belabour the point too much longer because I intend, in the detail stage, to go through the salient amendments. There are not many. I notice you looking askance, Mr Speaker.

MR SPEAKER: No, no, Mr Quinlan.

MR QUINLAN: Of course not, Mr Speaker. I intend to mention those and their effect during the detail stage. Most members are probably aware that I spent a good time in my career working in the statutory authority. That statutory authority, the ACT Electricity Authority, was set up in 1964 and it provided exemplary service over many years. It provided the lowest tariffs in Australia. It built an identity and an ethos as a stand-alone enterprise of which most of the people who worked within it were very proud. It was only in the later years that we moved towards corporatisation and then the half sell-off that we have reached now. There were many years that that remained as a statutory authority. I see no reason why ACTION cannot remain for many more years as a statutory authority and maintain the ethos of service to the public, maintain some of those uneconomic services because people need them, and still receive support from government, because there are savings rendered by the existence of a public transport system and the removal of so many motor vehicles from our roads without necessarily progressing to the corporatisation stage.

I hope to be here for some if not all of the time of the five-year contract and I will be fighting tooth and nail to maintain ACTION as a statutory authority, as I did, but failed, in relation to the electricity authority as a very successful statutory authority. In fact it was so successful that it represented a real wad of cash if sold.

I will leave it at that, Mr Speaker, and hopefully rip through reasonably quickly the significant amendments to the original bill that have been hammered out between ourselves and the government.

MR RUGENDYKE (9.05): You have to be suspicious when the two major parties join forces like this. I will not refer to previous votes, but it happened with the Electoral Act. People know what happened there. For me, Mr Speaker, the question is about accountability. I am brave enough to say that I might have made a mistake by supporting, if I have, the creation of statutory authorities and similar things. I think I did it with Bruce and I think I regret it. Bruce is one that sticks in my mind.

It strikes me that when you create these authorities, corporations, TOCs, call them what you like, it is one step away from accountability. The benefit for Mr Hargreaves, if he succeeds in government next year, is that he will have that same escape. He will be that one step away from accountability—mea culpa; it's the board. We remember Bruce and we remember Totalcare. So these are my concerns, Mr Speaker.

I would have thought it might have made sense if profitability was a factor. It concerns me greatly that we spend about $70 million on a bus service, about $50 million on police and about $50 million on children's welfare. It is an outrageously expensive bus service. I know that the people in the gallery do their best to make ACTION as profitable as they can, but they know themselves that it is not possible. It never has been and it never will be, but I don't know that turning it into an authority or a corporation will make a jot of difference. It will still cost $70-something million.

Mr Hargreaves: It has to put it in an annual report.

MR RUGENDYKE: An annual report. There's a brave call.

Mr Hargreaves: You have to put it in.

MR RUGENDYKE: Yes. Accountability is the big question for me. Mr Speaker, I am suspicious about the two major parties here cooking up this deal. I will have no part of it. I will not be supporting it.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.08), in reply: Mr Speaker, I simply rise to thank the majority of members for their support. This process started in November 1999 and we have taken some time to get here. It is pleasing that a single set of agreed amendments will go ahead. Mr Quinlan will move shortly the amendments the government has agreed to. We believe there are some sensible amendments there, which is why we will be supporting them.

The bill as amended will then establish ACTION as a statutory authority. That is why it is not covered by the TOC Act. It will be an authority.

In regard to payments, the general theme of some of the debate seems to be about a guarantee that services are provided to those less well off. Of course, the government's community service obligation will continue. It will continue with a great deal of clarity because we will be purchasing the service and it will be transparent that the purchase is made.

Mr Speaker, I wish to express some thanks in respect of this bill. Peter Madden in Mr Quinlan's office and Mr Quinlan have worked very hard with James Lennane from my office, Guy Thurston, Brian Macdonald, Rosemary Garratt and Allan Traves. Several other members of the department have all worked very hard to bring us to this point and I thank them for their good endeavours.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR QUINLAN (9.15): I seek leave to move amendments Nos 1 to 80 circulated in my name together.

Leave granted.

MR QUINLAN: I move amendments Nos 1 to 80 circulated in my name *[see schedule 1 at page 2845]*.

Those of you who have had time to read these amendments will know that the bulk of them change the name of the body from ACTION Corporation to the ACTION Authority to truly represent the status of the organisation. I know Mr Hargreaves would love to give a couple of definitions, but I think everybody is happy that that is the case.

A number of reservations were brought forward in speeches at the in-principle stage. The first of those was regarding the functions of the authority. Members will note from amendment 11 that there is restoration of the principle of ACTION as a public service maintaining its community service obligations enshrined in legislation. That is one reservation catered for.

Within amendment 18 and amendment 20 there are provisions to tighten up control over the disposal of assets, the subject of a further reservation brought forward. With amendment 26, parliamentary counsel liked it written that way better than the original way, so we have taken his advice. Amendment 31 contains standard provisions that I have introduced into this place earlier in relation to such bodies and declarations.

There is within amendment 40 protection of workers to ensure that they have conditions that are negotiated. Previously they were virtually within the original act, just brought down under the hand of the authority.

Amendment 44 increases the amount of information that might be forthcoming or commanded. Amendment 56 is purely a drafting amendment, as is amendment 68. Amendment 35 is fairly standard stuff these days. Amendment 78 really tightens up transitional transfer assets, rights and liabilities and includes provision for a disallowable instrument.

These amendments address at least the main reservations that were brought forward in members' speeches earlier. I remain confident that we have a decent result. As I said at the in-principle stage, the real key has been the agreement for a five-year contract that will take ACTION pretty well through the life of two Assemblies. If there is some proposal to change beyond that point, that proposal will be on the table around about an election year. I am very confident that ACTION will stay the way it is designed in this legislation for quite some considerable time. I commend these amendments to the house.

Amendments agreed to.

Bill, as a whole, as amended agreed to.

Bill, as amended, agreed to.

Road Transport (Public Passenger Services) Bill 2000

Debate resumed from 7 August 2001, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

MR HARGREAVES (9.21): I have already spoken on the materiality of this bill. The opposition will be supporting the bill and the government's amendments.

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) (9.21): I seek leave to move amendments Nos 1 to 30 circulated in my name together.

Leave granted.

MR SMYTH: I move amendments Nos 1 to 30 circulated in my name *[see schedule 2 at page 2857]*.

I take this opportunity to thank all those who have had a part in this legislation. It guarantees standards for public transport passengers in the ACT. After extensive consultation, the 30 amendments will make the bill an even better bill.

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

Suspension of standing and temporary orders

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

> That so much of the standing orders be suspended as would prevent a motion being moved to rescind the resolution of the Assembly of Tuesday 7 August 2001 relating to the agreement to the Road Transport (Safety and Traffic Management) Amendment Bill 2001 and to reconsider the Bill, as a whole, in the detail stage forthwith.

Rescission and reconsideration

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

> That:
>
> (1) the resolution of the Assembly on Tuesday 7 August 2001, relating to the agreement of the Road Transport (Safety and Traffic Management) Amendment Bill 2001, be rescinded;
>
> (2) the Bill, as a whole, be reconsidered in the detail stage, pursuant to standing order 187; and
>
> (3) reconsideration of the Bill, as a whole, in detail stage commence forthwith.

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) (9.25): I move the amendment circulated in my name *[see schedule 3 at page 2870]*.

MR HARGREAVES (9.25): This amendment is a machinery amendment, and the opposition will be supporting it.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.26): I thank the opposition for their support of this amendment. This amendment simply cleans up redundant clauses that are an effect of the amendment of the government's bill earlier this year.

Amendment agreed to.

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

Bill, as amended, agreed to.

Postponement of orders of the day

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

> That orders of the day Nos 4 to 9, Executive business, be postponed until a later hour this day.

Supreme Court Amendment Bill 2001

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

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (9.27): This bill establishes the Court of Appeal as a division of the Supreme Court to replace the Federal Court as the ACT's intermediate appeal court. The bill provides for a president of the Court of Appeal. The president may be the Chief Justice, a current resident judge or a new appointee. The Chief Justice remains the most senior judge, and the president is second in seniority.

The need for a separate court of appeal has arisen through the refusal of the Commonwealth to appoint new resident judges, most specifically Justices Crispin and Gray, to the Federal Court. The ACT Law Reform Commission recommended in a report signed by Justice Crispin that the ACT establish a separate court of appeal.

As a digression, I continue to regret, as I think we all do, that the Commonwealth has taken the attitude it has in relation to the Federal Court. I still struggle to understand why the Commonwealth felt the need to take that action, given the impact it has on the administration of justice in the ACT.

There should be no need for new judges to be appointed to the ACT Supreme Court, apart from the president, if that role is not to be performed by a current judge. I do not know what the Attorney's views on that are, but if he wishes to express a view on it in this debate I would be quite interested.

The bill is straightforward. However, there is some minor new policy in the bill which I do not think has been discussed. There is a provision in the bill permitting reference appeals for a person who has been tried on indictment and acquitted. At any time up to 60 days after the trial, the Attorney or the DPP may appeal any question of law arising

out of the trial. The outcome of the appeal does not invalidate or affect any verdict or decision given at the trial.

The purpose of these appeals is to allow the prosecution to obtain rulings after the event on novel or contentious points of law that are raised during the trial, without jeopardising the accused through an appeal or retrial. I understand that a similar procedure is available in Victoria.

The Attorney also proposes amendments to the Crimes Act allowing prosecution appeals on a point of law where a jury acquits an accused person. If these amendments are carried—and I expect they will be—the prosecution will have a choice of appeal mechanisms: one that jeopardises the acquitted accused and one that does not.

I raise those issues because there has not been much discussion on them. It is worthy that we note these things in debate. As I indicated, the Labor Party will support the bill, whilst regretting the need for us to establish our own court of appeal.

MR STEFANIAK (Minister for Education and Attorney-General) (9.30), in reply: I thank Mr Stanhope for his comments and support. I agree with his comments in relation to the Commonwealth's action in not appointing our two most recent judges as members of the Federal Court and their clear action in indicating that such appointments will not happen again. That has precipitated the need for us to establish our own Court of Appeal.

One of the benefits is that we will have our own court of appeal. Most of the matters which are appealed from the Supreme Court to the Federal Court are related to issues which normally do not go before the Federal Court in the rest of Australia—state-type issues like commercial law and criminal law, not bankruptcy and things which are totally the prerogative of the Federal Court in other jurisdictions in the Commonwealth of Australia.

I think there are positives. Mr Stanhope is quite right. Had the federal government not gone down the path of not appointing more recent judges as members of the Federal Court, we would not necessarily have taken this legislative step.

I do not think reference appeals occur very often. I have a short note here saying that there are two cases the DPP can remember in the immediate past. That accords with my recollections over the last 10 years.

I do not think it is possible to overestimate the importance of a respected and authoritative appellate court in the ACT. I certainly hope the arrangements we are setting in place will serve to instil even greater confidence than already exists in our judicial system in the ACT.

In agreeing with Mr Stanhope about what the federal government has done with the Federal Court, I do not wish to belittle the competent service that has been extended to the people of the ACT by the Federal Court over past decades. However, that court does serve broader and different purposes, and the respected and learned judges of that court have discharged, and I understand will continue to discharge as additional judges of the ACT Supreme Court, an onerous burden with distinction.

However, sadly or otherwise, the time has now come to allow the ACT Court of Appeal to develop as a distinctly ACT institution. I wish it well. It is a fairly historic step in the ACT, albeit one that has been forced upon us to an extent. I thank members for their support of the bill.

Question resolved in the affirmative.

Bill agreed to in principle

Leave granted to dispense with the detail stage.

Bill agreed to.

Criminal Legislation 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) (9.34): The Attorney introduced this bill on 15 June 2001. He said at the time, and continues to repeat even as late as in a press release today, that this is not the opening bid for the law and order vote at the election. I might go back to the Attorney's press release in a second.

Whilst the Attorney might believe that statement, I think his press release today belies it, and I am not sure anybody else believes it either. The fact that he is bidding for the law and order vote is apparent from the language he uses in describing what the bill permits or prevents, the targets it aims at and the process he used to decide what amendments should be put forward.

In his presentation speech, the Attorney said that this bill is the result of recommendations from the working party he established to examine crime legislation. We should think about some of the motivation behind this bill and the process utilised. It is worth looking at the composition of the working party established to examine the crime legislation. The working party consisted of departmental representatives, the Australian Federal Police, the Australian Federal Police Association and the Director of Public Prosecutions.

Given the make-up of the review committee, it is not surprising that this bill attempts to give the police more power and to give the DPP more power. It allows some rather extraordinary extensions of powers to the DPP and the police which I will come to in detail during the detail stage.

The concern is that there was no balance on the working group, as a result of which the Labor Party believes that there is not sufficient balance in the bill, particularly in relation to some of the amendments that have been made to what have been regarded as not just fundamental tenets of individual rights but fundamental tenets of the law. If we look at some of the advice that was received after the event, after the preparation of this bill, from those who would probably have had an expectation that they would be

involved in this very significant law reform process, then we can see quite clearly and quite starkly, and very worryingly, that the government has got the balance wrong in this bill.

Who is it that might like to have been consulted or approached? We need to ponder the consultation and this government's recent claims to be concerned about consultation and listening to the people and consulting generally.

This is a major and significant law reform package that we are debating. It is one of the most fundamentally significant criminal law reforms that have been made this year. Whom did the government not approach? Whom did they not consult in this most significant law reform process? They did not consult the Bar Association. They did not consult the Law Society. They did not consult the Legal Aid Commission. They did not consult a single community legal centre. They did not consult any youth advocates or youth groups. They did not consult the domestic violence organisations. They did not consult the rape crisis centres. They did not consult any of these people on their most fundamental piece of criminal law that we will debate this year.

It was only after the bill was tabled and I had approached each of these organisations that they became aware of the issues we are now debating. The only input any of those organisations has had into this piece of significant legislation is the input they will now have through me raising their concerns. For the government to pretend that it does consult on any issue is rendered a nonsense by its record in relation to this exercise, if we can use this as a significant indication of its attitude to consultation on law reform.

Comment I have received back on the bill, which I circulated to each of these organisations, has been universally negative. Those organisations do not accept the rationale, the need, the explanation or the alleged justification for some of the changes that are proposed in this legislation.

We are not talking here about the calm, measured language which one expects, for instance, from the Law Society. In relation to the presentation of cheques and the consequences of a bouncing cheque, the Law Society says, "The scope of the proposed offence is breathtaking." That is a dreadful condemnation. This is from an organisation that was consulted only after the event. They describe the provision in relation to the passing of cheques as breathtaking. They go on to say:

> It is our view that it is totally inappropriate to withdraw the requirement for criminal intent for this type of offence. The offence is made out against any person who has a cheque "bounce". It is not good law that the onus is then turned on the person to establish innocence—particularly when the meaning of sub section (3) is so unclear.

That is the nature of the language in relation to one provision from the Law Society, not exactly your raving left wing, heart-on-the-sleeve organisation.

The views of the Bar Association were not sought. On the proposed introduction of a new section allowing for prosecution appeals against an acquittal, this is the language of the Bar Association, once again not your raving heart-on-the-sleeve loony left organisation:

> It has long been a fundamental premise of our law that once an accused person has been acquitted following a jury trial that that is the end of the matter and the accused person may not and should not be put on trial again.
>
> The Bar Association opposes the wholesale abrogation of this fundamental principle without a truly demonstrated need for change.

That is the language of the Bar Association. Similarly, the Legal Aid Commission expressed concerns at a whole range of changes proposed in this legislation. I have referred to just some of the responses that were received from organisations that were not consulted. With the Attorney's insistence on including in his crime working party only police, members of the Police Association and representatives of the DPP, he of course got a bill which reflected the particular position of those organisations. Surprise, surprise! He did not have anybody on the working party to suggest that there is a range of other competing interests that always need to be protected and considered in any change to the criminal law.

I have some concerns about the obvious targets of some of the amendments and the quite deliberate intent to focus on certain aspects of the administration of the law. In a way it is a beat-up. They are amendments for which there is absolutely no demonstrated need—amendments in relation to new powers of entry for the police, amendments in relation to powers of search, amendments in relation to dealing with young people of the ages of 16 and 17. There is absolutely no evidence that in relation to any of these issues there is a problem. At the detail stage I will go to the detail of our concerns in relation to a whole raft of measures included in the bill. I will have quite a bit more to say on it.

There are significant aspects of the bill we do support, there are aspects that we cannot support and will not support, and there are some provisions that we seek to amend to ameliorate the unacceptable aspects of the government's amendments. On balance, I can probably say that we support half of the bill, we will oppose a quarter of it, and we will seek to amend the other quarter.

MS TUCKER (9.44): This is an omnibus bill that includes some desirable initiatives, some dubious initiatives and some positively unwelcome initiatives. Of the desirable initiatives, the Greens support the changes regarding the care and protection of intoxicated persons. We are also supportive of the introduction of provision for inquiries into convictions.

The most interesting thing about this set of amendments lies in how narrowly they are informed, as Mr Stanhope said, demonstrating to those who are interested that this government is quite arbitrary in how it consults with the community and with whom it consults, despite all its bland posturing about listening to the community.

This government has never been embarrassed about its enthusiasm for policy development by numbers. Given that we may end up with four or five ex-policemen in the next Assembly, it appears a pretty reasonable proposition that the ACT Liberal Party wants to firm up support from the law and order lobby.

The Attorney-General and his cohorts set up a police and prosecution advisory group earlier this year to recommend changes to the law. Organisations with an equally valuable perspective on the issue—the Law Society, the Aboriginal Justice Advisory Committee, the Youth Coalition of the ACT, among others—have not been part of the discussions. But the Police Association specifically were included.

When it comes to changes to police powers and the administration of justice, it is often only the interests of the police that this government even purports to represent. The ill thought through victims of crime legislation is a good illustration of that approach.

Yesterday we had a debate on Mr Hird's motion on the success of policing. I do not recall Mr Hird saying anything yesterday about how police carrying out their duties have been limited by laws that require them to reasonably believe rather than suspect people of offences. I do not recall anyone in the Assembly yesterday talking about how much safer our community would be if only police had the right to force entry into cars suspected of carrying traffic evasion articles.

I think I recall the government side of this house expressing the view that the police and government have been doing a very good job, and that this was a fine thing for the community at large. The point is that the police do not appear to have been unduly hindered by the lack of powers available to them.

Perhaps the most extraordinary insight into the process has come out of inquiries my office has made in regard to evidence of the need for these amendments. There is anecdotal explanation for most of them but very little by way of statistics.

The power in this bill for police to enter a house without a warrant, on the basis of a suspected negligent driving offence, illustrates the problem. Under this bill, police may argue that they reasonably suspect someone of driving a car with bald tyres. Is that a rationale to enter the home of someone and arrest them without a warrant? However, neither the department nor the police have been able to proffer any instance where such a power can be shown to be necessary.

We are shifting a long way from the requirement that police need to gain a warrant before entering your house or car and that they need to believe you have committed an offence before they stop and search you or arrest you.

It seems that the working party for the police is of the view that there are a number of known offenders whose involvement in crime is linked to dependence on illicit drugs and that if the police were allowed simply to bail them up on suspicion and bust into their houses or cars on suspicion there would not be a crime problem anymore. And if we need to ride roughshod over any more general principles of law—civil liberties—as we deal with this situation, that is not really a problem for a party that wants to demonstrate it is tough on crime, is it?

One could take a more thoughtful approach. In some ways Mr Humphries is saying that he will do that, in his public support now for the concept of a heroin trial and a safe injecting place. I think he is supporting both of them now. I am glad to see that. But we obviously have to go a lot further.

People who do not take that position on reform of drug law often quote Sweden, which spends the most of OECD countries on services. There is a very interesting relationship between substance abuse and poor morale in a society and how well people are supported in fundamental things such as housing, employment generation, family services and so on. These are causes which need a thoughtful long-term approach. Of course, there is an election coming up, and such an approach does not make for easy answers, for snappy media or for simple messages.

A comprehensive and thoughtful approach to crime reduction does not deliver immediate political rewards to its proponents. Politics in the ACT revolves around individuals, and a populist approach built on the individualisation of success and failure, irrespective of the long-term consequences, will attract media interest and support from some voters.

I will work briefly through a number of the other amendments to crimes acts in this bill which reflect that same simplistic approach. For example, neither the police nor the department were able to provide us with evidence that the requirement to gain an order from a magistrate before taking identifying material from a young person has interfered in the work of the police. The police keep no record of the exercise of move-on powers and could offer no evidence for the need to extend those powers.

Even on the issue of home invasions, the only figures we were offered related to instances of aggravated burglary. The case is made that a substantial penalty ought to be imposed on people who commit common assault in your home or threaten to commit an assault, whether or not they steal anything. Even in answer to a question on notice the Attorney-General was unable to give the number of such instances that the law failed to cover. It appears to be another instance of the rhetoric outpacing the information.

The fact that a committee of police and prosecutors see an advantage in these changes is not in itself sufficient argument for me, nor should it be sufficient argument for any member of the Legislative Assembly.

The issue of shifting the burden of proof onto someone passing valueless cheques has raised considerable disquiet in the welfare and legal communities. The argument has been put to me that fraud of this nature is growing. In fact, the police advised us that last year, on average, there were three reports of valueless cheques each week and that there were no successful prosecutions in relation to those reports under existing provisions of the Crimes Act. However, the Law Society, in a submission to the Attorney-General, maintain that they are not aware of ongoing difficulties for the prosecution of such offences.

My concern here is the possible consequences of this presumption of guilt on the part of people who are irregular rather than fraudulent in the management of their finances. In his presentation speech, the Attorney-General showed how easily a defendant charged with this offence could show that they had checked their balance before writing a cheque or reasonably expected a salary payment to be deposited. The point is that the very people unfairly charged under this law would be most unlikely to have checked the balance or be expecting a salary deposit.

It is so easy to cast the argument as one of reasonable police pursuing fraudulent impostors. But we cannot assume that all police will always observe their powers fairly, and we know that it is not just about fraudulent impostors.

The situation for many people when they interact with law enforcement can be complex and very unfortunate. Making us all vulnerable to charges of fraud and dishonesty whenever we bounce a cheque is shifting the balance too far. The fact that South Australia, Victoria and New South Wales have taken this course of action is no reassurance.

Scrutiny Report No 10 raises some fundamental questions in regard to post-conviction reviews and orders to review acquittals and grant a retrial. While we have had the scrutiny report since last Friday, it does raise questions about how we deal with legislation here in the Assembly. Very often we get the scrutiny of bills report close to the anticipated day of debate on the bill covered by the report, and then perhaps we get a response from government on the day we plan to debate the bill. It is not good.

Scrutiny of bills is an important part of the democratic process and provides the only non-partisan oversight of the impact legislation has on personal rights and liberties. That scrutiny reports are often tabled or circulated too late in the process is one problem we ought to address. That the government response is made available on the day of the debate, if we are lucky, is another.

Members of the ACT Assembly are elected under the Hare-Clark system, a system supported by the ACT community in a referendum and likely to remain with us. Consequently, there will almost certainly always be small parties and Independent members in the Assembly playing an important role in shaping the law of the territory. People who claim to be at heart democrats, with a small "d", should remember that democracy is not just about asking the electorate to decide on an issue; it is also about ensuring that our democratic institution can work effectively.

The issues raised by the scrutiny of bills committee and the government's response to those issues ought to be considered very carefully by those of us on the crossbench. If government cannot manage business in this place so that members on the crossbench can properly consider the impact of legislation, then it is not meeting its democratic responsibilities.

In that light then, the scrutiny of bills committee comments on the proposed provision for inquiries into convictions are disturbing. The committee begins by making the point that "provision for post-conviction inquiry is an essential component of a scheme for criminal justice". The committee makes the point time and again that there appears to be no justification for the details of this particular scheme. It raises questions regarding the narrowness of its application, the complexity of its drafting, its retrospective application, the unclear nature of such an inquiry's relationship with the police, and so on.

The scrutiny of bills report is also seriously concerned with the introduction of orders to review acquittals. It makes the point emphatically that the finality of acquittal is the keystone of personal freedom and reminds us that it is the state which is both prosecutor and court, tilting the balance in terms of power and resources very much

against the individual, and argued in the end for a much more constrained approach to appealing acquittals—namely, that they be allowed only when the area in law was "on the whole case a probable explanation of the verdict of the jury".

These are fundamental questions of law. It is remarkable that the government should see fit to pursue its chosen course of action before responding in a coherent way to the questions asked. But up until last night there had been no government response to the scrutiny report. It may be that the government is confident in its numbers. The previous Attorney-General, in a letter to me last year, made the point that he did not need to consider the fairness of ethics of the law he was introducing or the amendments he was supporting, as it was rather a question of numbers. Perhaps we are seeing something similar at play today.

The Greens will be opposing a number of the provisions and amendments in this bill and moving some small amendments in the detail stage.

MR STEFANIAK (Minister for Education and Attorney-General) (9.56), in reply: I thank members for their comments, although I do not agree with their criticisms. Comments were made that this bill is very much part of a law and order election campaign. If people oppose sensible amendments to laws this government makes and we are close to an election, of course we will use that in the election. But anyone who looks at my track record in this Assembly knows that I have always been interested in law and order issues. I was a prosecutor for nine years. I spent six years in three firms in New South Wales and the ACT as a private solicitor specialising in criminal law and to a lesser extent family law.

Mr Moore: Move-on Bill.

MR STEFANIAK: That is right. I was called Hang 'em High Bill and all those sorts of things in the first Assembly. Quite frankly, I do not care whether there is an election or not. If I can see areas in the law which need improving, especially areas where I have a reasonable amount of expertise and experience myself, I will push those. I do not care when it is, whether it is election time or three years out from an election. It is understandable that Jon Stanhope and Kerrie Tucker will say that this is all part of an election. It certainly is, because an election is around the corner.

We have a lot of working groups. This was a specific working group set up to see what areas of the criminal law needed improving so that our police and our prosecution service could do their job without unnecessary and unreasonable legislative hindrance. It deliberately did not have a wider representation that other committees would have. We have a Law Reform Committee which does an excellent job.

Mr Stanhope: Which one is that?

MR STEFANIAK: It is chaired by Justice Crispin, I think, and has all sorts of people on it. I have in my office a report which, unfortunately, because of pressure of business, I have not had a chance to read for the last three or four days. According to a quick summary sent to me by the learned justice, it proposes some very significant changes to bail, reversing the presumption for things like murder. That is a very broad committee which took a long time to come to that position. That is an example of one

committee. Obviously, we will not have a chance to bring any of that in during this Assembly.

Another group is looking at criminal law is very representative. It comprises four senior people. Tim Keady chairs it. Chris Staniforth of Legal Aid is a member, as are Richard Refshauge and Chief Police Officer John Murray. That group is looking at some longer term issues in relation to the criminal law.

This legislation was put on the table, and it was sent out to all groups who had an interest in it. It was developed by a specific committee. I commend the committee of officers from the department, the AFP, the AFPA and the DPP for their work. I suppose that if we extended membership to every single group we would probably be here three or four years down the track and no-one would necessarily agree. I think it is important for legislation like this to be put down. Groups have made comments on it. I am a little bit disappointed in some of them. I do not think they have been terribly well thought out, and I think in some respects they are quite wrong.

I am a little concerned about the response from the Law Society. When I opened Law Week, I was standing on the periphery of a very interesting conversation between a couple executive members of that society and practitioners. They were saying, "This is a reflection of what the community wants, and we need to be responsive to that. Let us not just go off on a tangent on it. Let us look at what the community wants." That was a very telling comment. I do not know that some of the concerns the Law Society raised really reflect that. The bill is about our duty as legislators to the community. We have to get the balance right. It is pointless having our police go about their job with one hand tied behind their backs because of legislative restrictions.

A lot of this legislation deals with laws that apply over the border. Kerrie Tucker mentioned that other states have similar legislation on valueless cheques. We had it up until 1985, and I am told by my officers that virtually every other state now has similar legislation to what we are proposing here. We used to have such provisions in the police offences ordinance. Maybe it is we who have gone too far the other way.

A lot of things happened in the 1980s. I do not know whether many people were around then, but I was. I was a prosecutor. With a lot of things that happened in the 1980s, we probably went too far. The rights of the criminal were highlighted far too much, and the rights of society perhaps went by the wayside a little too much. I think it is time we addressed the balance and got it right. This is not just about being overly pro-police or anything like that. It is about the rights of society—what is important for society, what is fair for society, what makes a fundamental civilised society work. If you go too afar the other way, you get it wrong.

The other night, at a Chinese prosecutors course, I was talking to some of the organisers. They are still at about 1840 England. I think they have got rid of the death penalty for traffic offences, but it is incredible what they still have it for. They have a long way to go. Hopefully, they will learn something here. That is an example of how completely off beam you can be. We have come a long way, but I think we need to recognise what the community expect.

I am pleased that all groups have had an opportunity to comment on this bill. It has been on the table for some two months. I mentioned the provisions about cheques. There are many provisions in this legislation which bring us into line with practice in other states. It is rather ridiculous that we have different tests, often harder tests which make it harder for our law enforcement agents, from those that apply in other states. I do think that is fair. I do not think that is what the community want.

The victims of crime are not often the rich. The rich can insulate themselves to an extent. It is the workers, the poor and the underprivileged who are the victims of crime. They are the ones who will benefit from law enforcement authorities having better power to do their job properly. They are the ones who will suffer less crime. We have seen decreases in some serious offences as a result of a huge concerted effort by police and, let us not forget, some back-up in legislative changes. That will benefit some of the more underprivileged members of our society.

The people affected by move-on powers are invariably young people. I am not going to say much more about that until we come to it. They are the ones who benefit. I do not think either Mr Stanhope or Ms Tucker were around when those powers were introduced in 1989. They are probably unaware of a *Canberra Times* survey then which is very edifying. You two are completely out of kilter with what the vast majority of Canberra citizens want. Sure, they do not want their police riding roughshod. That is why the internal affairs divisions are scrupulous in ensuring that police do the right thing. That is why we have a good ombudsman service. That is why police have such restrictions on them. If they appear in front a disciplinary tribunal, they have to answer questions. They are forced to. They do not have the normal rights of other citizens. They are crucially important checks and balances. Police who are in a position of some power can be held totally responsible. In Canberra that has certainly been the case. I think that all members will agree that we are probably being well served by our police force.

Mr Hargreaves said yesterday in the debate on the motion by Mr Hird:

> Even a dyslectic reader would be able to figure out that I only ever congratulate the police if they are doing something well, and I belt the government if they are not allowing the police to do a good enough job. That will be the tenor of what I have to say today.

Mr Hargreaves is not here. Maybe as a result of what his leader has said, he might have to belt him for not allowing the police to do a good job and for opposing some of the things the Labor Party will be opposing here today.

Mr Speaker, this is about balance. It is about fairness to society. We have checks and balances in our system, and that is right. But I think it is time we took stock and worked out what we can do to ensure that we are consistent with a lot of the rest of the country on these important issues and gave our law enforcement agencies the ability to do the job we want them to do properly, without unnecessary and unreasonable restrictions. That is exactly what this legislation does.

I am happy that Mr Stanhope has indicated he supports some measures here. There are a number of measures which are in fact civil libertarian measures. It is not just a package to increase powers. There are also some other measures. It is a wide-ranging series of amendments, but it is a balanced series of amendments.

I close by thanking officers of the working group, officers of my department and various members of the police force and the DPP who assisted in getting this package up and running. They did so in a short period of time. I think the ordinary citizens of the ACT will be the beneficiaries from this. I will be very disappointed to see huge gaps torn in this package by the Assembly. If you do so, despite your fine rhetoric, you will not be serving the citizens of the ACT. They are the ones who are going to be the beneficiaries from this.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5.

MR STANHOPE (Leader of the Opposition) (10.07): The Labor Party will be opposing this clause. Clause 5 of the bill proposes an amendment to permit the police to take identifying material from a young person who is in lawful custody for an offence committed if the young person is 16 or 17 years old. If the Attorney had bothered to consult anyone other than the police and the prosecutors, he would have learned that this provision is anathema to those who work with young people. Even if he had limited his consultation to, say, the Youth Coalition, he would have learned that. If he had limited his consultation to that kind of organisation, he would have had a different perspective on this provision and would have brought some more wisdom to the debate.

The scrutiny of bills committee has pointed out at some length that at the very least, and this goes to so much of the comment that is made by other than those who comprised the minister's crimes committee, there has to be some justification for a provision such as this and for the changes that are being proposed here. There is simply no justification for this provision. The Attorney has not provided any justification. There is nothing in his presentation speech as to why this provision is necessary. Because there is no justification, one has to be suspicious that what the police want, what the prosecutor wants or what whoever it was that proposed this amendment wants is what the scrutiny of bills committee calls, interestingly, windfall identifications against material from old crime scenes. Is that really the justification for this amendment? That is information that we got from the scrutiny of bills committee. The committee surmises that what the government was seeking to achieve through this amendment was the opportunity for windfall identifications against material from old crime scenes.

At present, the police must obtain an order from a magistrate before taking such material. The current procedure is that, in order to take this identifying material, the police need an order from a magistrate. No evidence has been presented by the government that this procedures presents a hardship to the police. Such an order can be obtained over the telephone. That is what we are doing here. At the moment, the police must obtain an order from a magistrate. The police are able to obtain that order by phone. Yet the Attorney thinks we need to undo that, we need to undo the making of a single phone call. Where is the justification for that? How does that affect the balance? What balance are we adjusting here that we are doing away with a phone call from the police to a magistrate?

The Attorney has made the point that the police claim that much crime is committed by young men in this age group and that they are repeat offenders. Even if there is evidence to support this assertion—all we have before us is an assertion; no evidence has been presented—that is no reason to strip adolescents of their rights; it is no reason to expose 16 or 17-year-olds in this way. We have debated often in this place the fact that people in this age group are the least empowered within our community, apart perhaps from indigenous people.

The Assembly chose, against some opposition, to ensure that we had a special magistrate appointed to rule over the Children's Court so that there would be some consistency of approach in dealing with children and young offenders. It was hoped that in time the special magistrate would be able to make recommendations about the best way of approaching juvenile offenders. I wonder whether the Attorney approached the Children's Court Magistrate. I have to say that I have been very impressed with much of what Magistrate Madden has been doing and saying in the Children's Court.

Did the government consult the Children's Court Magistrate before moving ahead with this proposal? If not, why not? Why didn't you consult a single youth advocacy service? Why didn't you consult your Children's Court Magistrate? Why didn't you ask Magistrate Madden what he thought about this amendment and whether it would enhance or impact upon the work that he has been doing extraordinarily well? I have to say that Magistrate Madden, in the work that he has done for young people, has really cut across some of the criticisms and the condemnation that were targeted very much at the proposal that we have a specialist Children's Court Magistrate. By way of digression, I need to acknowledge Mr Osborne's determination to see the Children's Court Magistrate proposal proceed. I think that those of us who supported that in this place have been well justified in our support.

It may be the case that the Children's Court Magistrate would have informed the Attorney that the superior courts in various jurisdictions have said that the purpose of granting the police permission to take identifying material from any person is to identify the person to the court. In this case, in the absence of any evidence that unidentified young people are being kept in custody and placed before the court without names, we must assume that the police want the power for some other purpose. Could it be that they want to run the fingerprints against old crime scene records to clear up some of the very many unsolved offences on the books?

Young people are intimidated enough by being in custody without the added pressure of police officers demanding identifying material without justification and without a court order. We have here a change to the law without any justification being presented and without the requirement that the police obtain an order which can be obtained by telephone. We do know that there are particular difficulties once children do become involved with the police and the criminal justice system. Children that are so involved have various problematic backgrounds and they do behave in very antisocial ways. This sort of treatment is going to do absolutely nothing to facilitate a more embracing or caring approach to the problems of these young offenders. There is just no justification for saying that the police need to take these additional steps in relation to children. Clause 5 should be opposed by members.

There is much in the scrutiny report in relation to this issue of the taking of identifying material. I must commend the scrutiny report for its coverage of the issues in relation to this matter. It is an excellent report, to the extent that it contains a wide-ranging discussion of very relevant issues in relation to all of the proposals in this bill. There is an interesting discussion on page 9 of the scrutiny of bills committee report in relation to the background of proposals about the taking of this sort of identifying material. I will conclude on this point: the Australian Law Reform Commission, in its consideration of the issue, made the finding and the recommendation fundamentally that this is not a course of action that should be adopted. Certainly, if it is, there needs to be very significant justification for doing so, a justification that has not been provided in this instance.

MR STEFANIAK (Minister for Education and Attorney-General) (10.16): My officers have reminded me that I did discuss a number of these things with Mr Madden, with whom I worked for a number of years through the DPP. Indeed, we were discussing some Children's Court matters only the other day. I must say that, apart from some differences that I have with him in terms of some of his views, he is doing an excellent job. I like the way he got out to see all the youth groups and the various agencies of government when he took up his role. Certainly, I have had disagreement with him in a couple of areas. I have known him for many years and I have been highly impressed by some of the things he has done. Also, might I assure the Leader of the Opposition that I have talked to quite a few people, including members of the judiciary, about these matters over a number of years, not just in the time taken for this bill to be worked up.

In terms of Mr Stanhope's specific points, it is often very difficult for police to get such an order from a magistrate. I think that is why they brought on this one. It is not just a matter of making a phone call; there is more to it than that. Even if it is simply a matter of making a phone call—sometimes a phone call to a magistrate is sufficient to obtain a warrant—it is not necessarily easy to do so because magistrates simply are not always available, and for very good reason because police often need warrants 24 hours a day.

Mr Stanhope mentioned Magistrate Madden. I am getting a bit too old to play in fifth grade these days, but fairly recently I was helping out the universities club, of which I am patron, by running the line at Griffith. They were playing Easts. Shane Madden was the referee. We were a bit late starting the second half because a police car turned up trying to track him down on a Saturday. I am not sure what it was, but he had to go

through documents. I was on the sideline watching him and the two police officers pouring over these documents on the bonnet of the car and the second half started a bit late. It is not all that easy, simply because of the fact that police often need to contact a magistrate 24 hours a day and, in this instance, I think that there are some other steps that have to be gone through.

Routine fingerprinting and/or photographing are very important as far as the integrity of offender databases is concerned. They also serve an essential policing function, especially given that technological advances have significantly increased the value of fingerprints and photographs as crime-fighting tools. One example there is the improvement in face recognition technology. The AFP has advised that it is not uncommon for suspects to give false names to police and, if routine fingerprinting is carried out, fingerprint records will assist to confirm the true identity of a person who has been convicted of an offence.

Someone mentioned the scrutiny of bills committee. That committee pointed out that there have been cases where it has turned out that a person routinely fingerprinted for a minor offence was wanted in connection with very serious crimes. It is necessary to provide for both fingerprints and photographs because fingerprints can change due to employment or damage, for example, a burn or scar. Likewise, the physical appearance of people changes.

Fingerprinting and photographing are simply not invasive procedures. In terms of 16 and 17-year-olds, the government looked very carefully at doing so, because it did not want to be too intrusive. It was pointed out to the government that 16 and 17-year-olds commit a very significant number of offences in the ACT. According to AFP statistics, in the 2000-01 financial year approximately 8 per cent of the charges, numbering 1,410, were laid against 16 and 17-year-olds and approximately 8 per cent of the offenders apprehended during that year were aged 16 or 17, numbering 705. It is therefore appropriate that, in this context, a 16 or 17-year-old should be treated in the same way as an adult suspect.

That being said, there are certain safeguards being built into this bill. Clause 5 provides that a magistrate's approval is required before material can be taken from a young person who does not appear to understand what is happening to him or her and clause 6 provides that material may only be taken in the presence of a person with parental responsibility for the young person or another suitable person. If it is the latter, police must notify the person with parental responsibility of the action taken.

Clause 8 will enact a new section 84A to ensure that the material taken from juveniles is destroyed if it is no longer relevant to a proceeding or an investigation; for example, if the juvenile is later acquitted of the offence to which the material relates. This section would also allow a magistrate to order the retention of the material if there are special reasons for doing so. There are currently no destruction provisions in the Children and Young People Act. I note the Labor Party does not oppose the remaining clauses dealing with the destruction of material; it merely opposes the clause which relates to a common sense procedure of fingerprinting and photographing.

It is not intrusive; it is absolute common sense. Why on earth would you really want to oppose it? I have given you statistics on that. Whilst the vast majority of 16 and 17-year-olds, just like the vast majority of 80-year-olds, 20-year-olds or whatever, are law-abiding citizens, unfortunately there are some who are not. There are appropriate checks and balances in accordance with the fact that they are still juveniles, but those statistics certainly warrant this reasonable and non-intrusive procedure being taken. I strongly commend the provision to members.

MR RUGENDYKE (10.22): I have given a lot of careful consideration to this amendment to the Children and Young People Act and I have put a lot of thought into it. To take the fingerprints and identifying material of 16 and 17-year-olds is a big step. I note that it can be done under the authority of the chief police officer, a superintendent, a sergeant or a police officer authorised in writing by the chief police officer. I note that the protection includes a requirement for parents or people with parental responsibility to be present and that the material will be destroyed after a year has elapsed.

I have looked carefully at the submission of the Youth Coalition in considering this amendment and taken into consideration my experience that a very large number of young people are committing offences and I am inclined to support the taking of such a big step. I trust that the police will exercise these sorts of powers with caution and discretion. I will not be supporting Mr Stanhope.

MR KAINE (10.25): Like Mr Rugendyke, I have had a good look at the issues in connection with young people and children and I have come to the opposite conclusion to him. I listened carefully to what the Attorney-General had to say on this issue. We are talking here about people who are 16 or 17 years old when an offence has allegedly been committed and we are talking about taking fingerprints or photographs of them without a magistrate's approval. The Attorney-General justifies that on the basis that, by doing as this amendment would permit a police officer to do, once in a while you will pick up somebody who had previously committed another offence. How often? Would it be once in 1,000 or once in 5,000? The Attorney-General was quite non-specific about that. I do not think that the fact that you might occasionally pick up somebody for a previous offence is sufficient justification for doing to every person in this category what the Attorney-General is proposing.

The other justification on the part of the Attorney-General, as far as I can gather, was that once in a while when you are trying to find a magistrate or a judge to approve your doing so you might have to catch him at half-time at a football game. That is not sufficient reason, either. I am by no means convinced, unlike Mr Rugendyke, that people of the age of 16 or 17 years ought to be subjected to the treatment that the Attorney-General proposes to dish out to them all on the flimsy bases that he just put forward. I have come to the opposite conclusion, Mr Rugendyke, and I will support Mr Stanhope's amendment to delete this provision from the bill.

MS TUCKER (10.27): I also intend to oppose this clause. I asked the AFP, through the minister's office, whether they could provide figures on the number of instances where the existing law has hindered them. I also asked them how often they had trouble finding a parent or someone else to represent the young person's interests. I have had no answers to those questions. I know that there is no shortage of anecdotal

information suggesting that the law as it stands is a hindrance to police, but there is also no shortage of anecdotal information coming to me that some young people are being unfairly picked on by police time and again. I am told by people who are advocating for young people that it is not the case that there is always someone there to represent young people, despite what Mr Stefaniak says.

I really wonder why a government which has claimed credit for setting up an Aboriginal justice advisory group, for example, did not consult it on something like this. It just beggars belief that the government could do that, given the issues for the indigenous community. What is the point of that? Is the government seriously expecting the community to think that it is fine for a government to set up a committee like that but not use it? I find that to be hypocritical and of concern.

In the absence of any hard data indicating that there is a real problem with law enforcement that this amendment would fairly address and with no assurance that problems that young people face in regard to not being represented when they are in the custody of police will be addressed, the Greens cannot support this amendment. It is, once again, an ill-thought-out proposal which may make it easier for the police, but for those of us who are working with people who are disadvantaged and marginalised in the community, it is not a good thing. It is a frightening thing and we have to reject it.

MR STANHOPE (Leader of the Opposition) (10.29): I do not want to take up too much time, but these issues are just so important. I want to respond to a couple of things that the Attorney mentioned. One is the point that Mr Kaine made. I just want to add my voice to that. I am concerned that the Attorney would advance as one of the justifications for this amendment a suggestion that the police sometimes have trouble finding the duty magistrate. I am most concerned to hear that our Magistrates Court is organised or administered in such a way that there are times when the police cannot find a magistrate or there is no duty magistrate.

If that is the case, then somebody needs to put a bullet up the Magistrates Court and up whoever it is that is administering it. We have a situation where the Attorney justifies having this sort of provision—taking away a substantial check, namely, that a policeman needs to seek an order from a magistrate—on the basis that sometimes no magistrates are to be found. I just do not think that that is acceptable. It is not acceptable to reduce a child's rights because the police cannot find a magistrate. If the Attorney is telling me that that is how the Magistrates Court is being run, perhaps it is time that we had a bit of a look at the Magistrates Court.

There is another issue to which I need to draw attention, but I do not want to do so at length. I think we need to look at some of the fundamental issues around why it is objectionable to start taking willy-nilly identifying material such as photographs and fingerprints. Mr Kaine alluded to that and there is a very good discussion of it, as I mentioned before, on page 9 of the scrutiny report. It is perhaps worth my going to something that I did not want to so as not to take up the time of the Assembly. The views that have been expressed concern me to the extent that I feel the need to read into *Hansard* the views of, for instance, the Australian Law Reform Commission, which did a seminal study of this issue that goes to the nub of why, in a society such as

ours, we do not do this sort of thing or, if we do, we do it only with the strongest and most pressing justification.

I think it is worth noting that the ALRC, in its report on criminal investigations, noted that at common law the police do not have a comprehensive power to take photographs and fingerprints. It noted that in R v Ireland, Barwick CJ, a former Liberal Attorney-General, said that "neither at common law nor under that statute has a police officer power to require a person to submit himself for photography for any purpose other than identification", the point that Mr Kaine makes. All right, do it for identification. If you want to do it for any other purpose, and it is clear in this case that that is what you intend, then justify the purpose. If you need to justify it, justify it to a magistrate.

In a decision of the Supreme Court of the ACT, Fox J read a statutory provision in a way that precluded the police from fingerprinting a person in custody merely because that was thought desirable. It is a puerile response to these fundamental issues to do so because you think it is a good idea and because of the point that the Attorney made by way of interjection that, if they are not guilty, they have nothing to fear. The ALRC endorsed the common law position. It approved the views of the then Victorian Chief Justice's law reform committee that the taking of fingerprints and photographs of a person, and this is where you get to the fundamental issue, involved a certain embarrassment and indignity.

The ALRC said that there is, for better or worse, an aura of real criminality about having one's fingerprints or photograph compulsorily taken. The ALRC went on to recommend how the taking of fingerprints and photographs of a person in custody should be limited to circumstances where that was necessary to identify the person or to afford evidence of the commission of a crime, and it goes on. There are fundamental reasons why we do not just go around willy-nilly trashing people's rights in this way.

MR STEFANIAK (Minister for Education and Attorney-General) (10.34): I am amazed at Mr Stanhope's comments. Obviously, photographs and fingerprints are taken for identification. I thought that was utterly basic, Mr Speaker.

Question put:

> That clause 5 be agreed to.

The Assembly voted—

Ayes 9		Noes 8	
Mrs Burke	Mr Osborne	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Rugendyke	Mr Corbell	Ms Tucker
Mr Hird	Mr Smyth	Mr Hargreaves	Mr Wood
Mr Humphries	Mr Stefaniak	Mr Kaine	
Mr Moore		Mr Quinlan	

Question so resolved in the affirmative.

Clause 5 agreed to.

Suspension of standing order 76

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

> That standing order 76 be suspended for the remainder of the sitting.

Clauses 6 to 8, by leave, taken together and agreed to.

Clause 9.

MR STANHOPE (Leader of the Opposition) (10.38): Mr Speaker, the Labor Party will oppose the clause. Mr Speaker, this provision amends the move-on powers to allow the police officer exercising the powers to impose conditions about the route taken to leave the vicinity and to exclude return to the scene for up to six hours. I think the Assembly is very much aware that the Labor Party opposed the introduction of the move-on powers. If we must have move-on powers, perhaps you could argue that you should take the next step and do whatever you can to reduce any potential for conflict. However, the arguments which the Labor Party has been putting and insists on in relation to the instigation and use of move-on powers apply equally well to this amendment, which really is an extension very much of the arguments which we have consistently used around the adverse impacts and the inappropriate use of move-on powers.

There is no doubt that move-on powers can be used to single out particular groups. Once again, move-on powers have particular impact on young people; they have particular impact on groups such as young indigenous people. Youth advocates have advised members of this Assembly that young people, particularly indigenous and ethnic groups, are overtargeted by police because they congregate in public spaces. It is a feature of the lifestyles of so many of these groups that they meet together and they congregate together in public places, more often than not perhaps as a result of their circumstances and any disadvantage that they may suffer. There are often no other places for them to meet.

Move-on powers really do just shift the problem around to different locations. They do not address underlying problems in relation to disadvantage, issues around unemployment, boredom, substance abuse, homelessness and all those sorts of things that actually cause people to congregate in public spaces. One of the problems with these sorts of powers is that they do not assist the community or any form of community service, whether it is the police or others, to concentrate on some of the issues that lead to some of the problems that we do, unfortunately, experience in our public places. These provisions are opposed particularly by advocates for young people. They are opposed for good reasons. The Labor Party will not support this extension of the move-on powers.

MR STEFANIAK (Minister for Education and Attorney-General) (10.41): I note that the Labor Party's amendments are getting rid entirely of the move-on powers, because the amendments to clause 10—

Mr Stanhope: They are not my amendments, Bill; they are Ms Tucker's amendments.

MR STEFANIAK: I am sorry, Jon. Maybe I should let Ms Tucker speak.

Ms Tucker: No, because if we are successful with this one, I will not need to move mine.

MR SPEAKER: Order! We are discussing clause 9, not clause 10.

MR STEFANIAK: Okay. Mr Speaker, I will be fairly brief and I will speak to both Ms Tucker's amendments and Mr Stanhope's comments. I am sorry, Mr Stanhope, if you are just opposing clause 9.

MR SPEAKER: So we are going to have a cognate debate on clauses 9 and 10.

MR STEFANIAK: Yes, but you are opposing clause 10 as well, aren't you, Mr Stanhope?

Mr Stanhope: Yes.

MR STEFANIAK: I think we should have a cognate debate.

MR SPEAKER: Is that agreed?

Mr Stanhope: Yes. I am supporting Ms Tucker's amendments.

MR STEFANIAK: Basically, Ms Tucker and Mr Stanhope are seeking to get rid of the move-on powers entirely. The improvement to the move-on powers is simply so that police will be able to direct people to leave the vicinity for a period of not less than six hours and actually indicate a direction in which they should go. That is utterly basic common sense. It is something that the police have indicated would be incredibly handy for them, because it would enable protagonists to leave and not be able to reoffend, get themselves into trouble, hurt themselves.

The move-on powers are commonsense measures which were introduced in 1989 and deactivated in 1993. Mr Osborne reintroduced them several years ago. They enable the police to defuse difficult situations. They have been particularly useful in breaking up fights and overcoming potential trouble between people in places such as Civic outside the bus interchange. They have been particularly useful in ensuring that some young people who might get themselves into trouble otherwise are moved on and do not end up before the courts for more serious matters, such as assault or malicious damage to property.

It is little wonder that when these powers were first mooted back in 1989 some 70 per cent of the population were in support of them, including 58 per cent of people under 25 years of age. Little wonder, because it is young people who benefit most from these powers. One can understand older people being concerned about street offences, so an overwhelming number of them would support these measures. I was particularly heartened to see the *Canberra Times* poll showing that 58 per cent of the young people surveyed were in support of these powers and only about 25 per cent of them were opposed to them, because it is fundamentally young people who benefit. Even if you

are likely to be someone who might get themselves into trouble, these powers will ensure that you will be moved on and will not be going to get yourself in trouble, perhaps saving you from being caught for something more serious.

Some material was provided to Ms Tucker in relation to this matter. I am just trying to find it. Ms Tucker has some amendments here which want the police to take all sorts of details. Indeed, she wants the government to commission an independent review after two years. That is what happened in 1989. The police had to take all those details and we had to review the situation after two years. Some 2,600 people were moved on and I do not think that there were any instances of real problems there. That was scrutinised incredibly by the Assembly. That requirement was not there when Mr Osborne reintroduced the powers, and rightly so, because it is a needless imposition on police resources. They have done so in the past, Ms Tucker. If you check the *Hansard* of the First Assembly you will see how effectively the powers were used. There is no indication that they are not being used effectively now.

It is not appropriate to require police to keep exhaustive statistics on the use of move-on powers. Move-on powers are quick, effective and impose little to no administrative burden on police, and those advantages should be retained. Requiring police to record details such as Ms Tucker proposes is simply ridiculous, especially details of a person known to an officer, given that often large groups of people are involved. One of the instances that we looked at in about 1990 involved 100 people being moved on before a situation resulted in a horrible fight in Tuggeranong. That is not the point of the move-on powers. It is to get people away. It is to stop them getting themselves into trouble and to nip potential difficult situations in the bud.

The advantage of the move-on powers for both police and the people concerned is that the police are not required to take details of anyone being moved on. I think it would be a backward step to require police to do so. I think that would be utterly pointless. If there is any requirement for police to keep some records, they can be kept administratively. I think I have provided Ms Tucker with some details in terms of just how many people were before the courts. The figure was about 11 or 12 for the last year or so. That is very much indicative of what we found when the powers were first introduced. Not that many people are charged as most people will move on. It is a very effective tool and has proven to be so in terms of defusing difficult situations.

The amendments to the powers simply enhance them, to the benefit of everyone, especially the people who are moved on. The government is rather disappointed that the Labor Party is seeking to delete these powers and Ms Tucker is seeking to substantially amend them in a very ineffective way.

MR RUGENDYKE (10.47): I will be supporting the Attorney's amendment to the Crime Prevention Powers Act 1998. The move-on powers are an important tool for police to use and I see no need to have them watered down or done away with.

Mr Speaker, I apologise for missing the in-principle debate. I would like to go on the record as being proud to support our police by supporting Mr Stefaniak's amendments, which have gazumped a lot of what I was planning to do. Ms Tucker derides the office of a police officer. She is worried that there might be more police officers in this Assembly. I find it unfortunate that she has that view. She says nothing about there

being more public servants, more teachers or more lawyers, but she derides the fact that there are ex-police officers here. Perhaps she would like to see the Eros Foundation grab a foothold here. That would be exciting, wouldn't it?

MR SPEAKER: Pardon me, Mr Rugendyke, did you say foothold?

MR RUGENDYKE: I did.

Ms Tucker: I would like some more nurses. I would like some more teachers. We have only one and he is going.

MR RUGENDYKE: But we cannot have more police officers; what a dreadful thing! While we have police officers here who are proud to support their police force, I will be one of them. I will be proud to support our police, to make their job more streamlined, and to help them clear up the crime rate, which they do so well. I will not be supporting Mr Stanhope. In fact, I might as well save everybody's time by saying that I have had a good look at the amendments and I will not be supporting those of Mr Stanhope or Ms Tucker.

MS TUCKER (10.50): That was a detailed argument! It looks as though I am talking to the omitting of the part and to what I am going to do if that is not done. We are having a cognate debate even though we do not know what the result of the proposed omitting of the part will be, although maybe we do. Mr Stanhope is attempting to omit the part which is a so-called improvement to the move-on powers. We will be supporting the omitting of the part. We opposed the reintroduction of the move-on powers in 1998. It seemed clear to us then that the police had sufficient powers at the time to perform their duties and that the move-on powers were more about ownership and control of public space than they were about the prevention of violence.

We do not have time to go into it tonight, but I wish we would have a debate in this place about the whole question of the social exclusion and marginalisation of people in our community, because they are at the heart of the concerns about move-on powers. If you look at the history of people clearing streets, you will see that it has always been a class thing. It started off as a class thing when shops were first introduced after the Industrial Revolution. A thing called shopping started and certain people did not like the peasants, the working class, being on the streets. They used to use the streets to play football, to congregate and to talk to each other. There was this emergence of a middle class and they started shopping. Then certain people started saying, "We do not want the working class to mess up the streets."

What we are seeing happening with move-on powers, if we look at any analysis of them, is that they do have a particular effect on certain groups or classes of people in our community. That is why people from the Labor Party and the Greens are concerned about the social implications. We are not seeing any analysis being done of that. Mr Stefaniak regards as ridiculous the amendments of mine which will follow if the opposition to this measure is not successful. What we are trying to do is to understand who this measure is impacting upon.

I am not surprised that this government thinks that it is ridiculous to do that as it does not have great enthusiasm for informing its decisions with information, but I would like to see information gathered from the police on who is being affected, how often the powers are being used and so on. It is perfectly reasonable in some circles to inform public policy, but not in the circles of the majority of members of this place, obviously. I recall that in the original debate that we had here Michael Moore spoke very eloquently against move-on powers. He said that they can be and have been abused. He spoke about move-on powers being the first step to a police state. He put the view that contestability is fundamental to our notion of democracy, but that powers such as these are not contestable.

When the ACT first trialled move-on powers, the police were required to report on their use of the powers, as Mr Stefaniak said. However, since the reintroduction of the powers, they have not. We do not know now how often the police have exercised these powers. We do not know whom precisely they have affected. We do not know if it is more likely that Aboriginal kids, for example, or boys in beanies have been moved on more frequently than others. We have no idea how these powers are exercised, how important they have been in averting violence, and what the social implications are in the long term of having these groups of people consistently being given the very clear impression that they are not welcome on the streets of our city, even though they are citizens of our city.

We get so concerned when there is antisocial behaviour in our city, we do not like having graffiti and we do not like people writing on a wall that they do not like the police, but we might like to look at the implications of this kind of action. We have absolutely no idea how often this new and extra right to direct people away from each other would have defused what instead would have become a violent incident. We only know that the police think that the powers would be useful, and that is not good enough.

I will now speak to the amendments that, no doubt, I will need to put. The amendments I have circulated require the recording and reporting of the use of move-on powers. If the police and the department are not going to build into the processes a requirement to assess carefully the impacts, intended and otherwise, of the powers we give the police, the Assembly should introduce such requirements into the legislation. Giving powers to the police should not become a one-way street. After all, we trust that a more positive and peaceful society, which one day we may reach, will not need to rely on such force or power to the same extent. We must always keep open that desirable option of moving away from coercion. It is crucial, then, to keep a weather eye on what we are doing in the area of law enforcement and the effectiveness of the powers and regimes that we establish. We cannot evaluate our effectiveness if we keep no records of our actions.

MR MOORE (Minister for Health, Housing and Community Services) (10.53): Mr Speaker, one of the interesting things about spending over 12 years in an Assembly such as this one—

Mr Berry: Oh, yes!

MR MOORE: Wayne knows. It is interesting to look back over that period. Ms Tucker cites the very eloquent speech I made at the time. Of course, this has been an area of oscillation for me.

Mr Berry: It sure has.

MR MOORE: It has. It has always been one of the most difficult issues for me to deal with. I know that some people will find that funny. On one hand, Ms Tucker was quite right in all those things that she cited. On the other, a very practical and pragmatic thing that I learned as a teacher, and I am sure that Mr Wood learned, was that if you knew trouble was brewing at the school level and you did something about it you did not wind up with a problem. Often experience would tell you that trouble was brewing. If you broke it up early, you did not wind up with a problem. I did that many times as a teacher.

The question for me has always been: should police be able to do so in the same way? What restrictions should there be? How should that be done. Mr Speaker, the important point here and the reason I am going to support this clause tonight is that it is about violence. The more I look around me and see the way some small sections of the community deal with violence, the more I think that we need to find ways of dealing with it other than arresting people and charging them, if at all possible.

Ms Tucker raises the issue, and rightly so, that this legislation is likely to have more impact on specific groups in the ACT. I think that we all can name them. Ms Tucker referred to one of the groups as the beanie boys. That is only one of them. Mr Speaker, over the years since I last opposed this legislation, I have not heard of one complaint with the legislation. When something is not working, the norm is for members of this Assembly to hear of the problems. In other words, the community has generally accepted the prerogative of a police officer to say, "No, trouble is brewing; you have got to move out of here."

Mr Berry: There were complaints from the word go, Michael.

MR MOORE: Mr Berry interjects, correctly, that there were complaints from the word go. I remember that the first complaint lodged involved a son of a member of the Assembly. That is not to say that the member necessarily encouraged the son, but a son of a member of the Assembly at that time was involved in the first complaint. As I recall, an appeal was taken to court on it.

Mr Berry: There were two of them.

MR MOORE: That may well have been the case. As I say, this issue has always been one of the most difficult issues for me. In some ways it was made somewhat easier last time round because my vote on it did not count anyway, but it may well do so this evening. I have no idea what Mr Kaine is going to do. I think he has always voted the opposite way to me on this issue, anyway. It seems to me that the powers are not causing the problems that I had been worried about. I hope that they are solving some of the problems of violence that I worry about.

Clause 9 agreed to.

Clause 10.

MS TUCKER (10.59): Mr Speaker, I have to move my amendments now.

MR SPEAKER: I thought we were having a cognate debate.

MS TUCKER: I have not actually moved my amendments.

MR SPEAKER: You may formally move them.

MS TUCKER: I move amendment No 1 circulated in my name *[see schedule 6 at page 2881]*.

MR SPEAKER: Do you wish to speak to it, Ms Tucker?

MS TUCKER: I have spoken to it.

MR RUGENDYKE (11.00): I will not be supporting this amendment. It is a matter of enshrining in legislation what police do normally. There are notebook entries of the crime, date, place and direction. That is normal police procedure that police follow when they use these move-on powers. They are standard operating procedures. I see no need to enshrine them in legislation.

MR STANHOPE (Leader of the Opposition) (11.01): I support the amendment. It seems to me that these are just basic and not particularly onerous accountability mechanisms that should be built into any process whereby a paid official gives a direction, particularly of this sort, to a member of our community. It is not much to ask of a police officer who tells people to move, gives them an order, tells them to rack off, that he be accountable for that. It is not much to ask for and it should be formalised. There is absolutely nothing against having these sorts of formal reporting mechanisms in our legislation, particularly when we are dealing with very fundamental individual liberties and rights.

I think we need to be mindful of that. We also need to be mindful of it in considering some of the other amendments which I fear may be successful tonight in relation to some of the other powers we are about to give to our police, if sanity does not prevail in this place. Do not take this proposal into consideration in isolation of other proposals that are included in this legislation. These are basic, simple, non-onerous measures of accountability that our police should not be afraid of.

Question put:

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

The Assembly voted—

Ayes 7		Noes 10	
Mr Berry	Ms Tucker	Mrs Burke	Mr Moore
Mr Corbell	Mr Wood	Mr Cornwell	Mr Osborne
Mr Hargreaves		Mr Hird	Mr Rugendyke
Mr Quinlan		Mr Humphries	Mr Smyth
Mr Stanhope		Mr Kaine	Mr Stefaniak

Question so resolved in the negative.

Amendment negatived.

MS TUCKER (11.06): I move amendment No 2 circulated in my name *[see schedule 6 at page 2881]*.

Amendment negatived.

Clause 10 agreed to.

Clauses 11 and 12, by leave, taken together and agreed to.

Clause 13.

MR STANHOPE (Leader of the Opposition) (11.07): I move amendment No 3 circulated in my name *[see schedule 4 at page 2871]*.

Clause 13 relates to valueless cheques, and this subsection creates the new offence of obtaining goods and services by passing a cheque that is not meant for presentation. I am not quite sure whether the government had anybody in mind, but there has been an issue lately of cheques being presented that have not been met. The subsection creating the offence places the onus on the defendant to prove that he or she had reasonable grounds to believe the cheque would be met and that there was no intention to defraud.

The scrutiny committee, the Law Society and the Legal Aid office all object to this section of the draft. The Law Society described the scope of this provision as breathtaking. We can all imagine scenarios where this provision would turn quite innocent people around the community into criminals. One would have thought, with the emphasis in financial transactions these days on credit cards, debit cards, EFTPOS and e-commerce—with smartcards still to come—that the opportunity for cheque fraud was declining.

This is another instance of the Attorney producing no evidence of the extent of the problem he is attempting to address. Once again, we are being asked to take this matter on faith. There may well be a wave of cheque frauds taking place. I have not heard about it; I am not aware of it. The Assembly has not been told that there is, so it can make no judgment. There is simply no evidence that this is a major problem that is not being dealt with and that there is no other way to deal with it.

There is the additional danger of the unintended consequence of giving the banks a weapon to use against their clients. A client with a marginal account with a bank could pass a cheque believing the bank would pay because they have done so in the past. Whether unscrupulously or accidentally, a bank could, through not actually honouring the cheque, render a client a criminal.

The subsection cannot be supported whilst the onus is on the defendant to prove his or her innocence. I have an amendment that I propose to this clause to make it clear that the responsibility for proving all elements of the offence rests on the prosecution. This is what happens with other offences, and there is simply no justification for reversing the onus of proof in relation to this particular provision.

MR MOORE (Minister for Health, Housing and Community Services) (11.09): Mr Stanhope puts a rather eloquent and convincing argument in this case. I cannot imagine that there are many of us who have not at some stage written a cheque thinking there that were funds in our account and not having them. I think the way the original legislation is set out, with those penalties and the reverse onus of proof, is over the top. I shall be supporting the amendments put by Mr Stanhope.

MR OSBORNE (11.10): I, too, will be supporting Mr Stanhope's amendments. They are quite reasonable. I shudder to think of the amount of charges that would be forthcoming should this legislation pass in its original form. Many people have joint accounts, which a wife and a husband can access. One person will write a cheque not realising the money has been withdrawn, and all of a sudden they are a potential criminal.

From my reading of the proposed subsection, any type of defence that you tried to mount would be very hard to put up. There are sections within the current Crimes Act for people who are attempting to fraudulently forego their liability, and I think this is overkill on the part of the government. Mr Stanhope has rightly fixed it.

MR STEFANIAK (Minister for Education and Attorney-General) (11.12): This law inserts the new offence of passing valueless cheques. It is similar to provisions that have operated very successfully in New South Wales, Victoria and South Australia for many years, and it is something we had until 1985.

The police have indicated that they receive about three complaints each week from business people who have been given valueless cheques as payment for goods or services, and they estimate that those complaints represent only about 30 per cent of all cases. Members will have noticed that in recent years many businesses are refusing to accept cheques or will accept them only by prior arrangement, which is a real indication of how pervasive the problem has become.

The existing offences dealing with theft and obtaining an advantage by deception have proved inadequate in these cases because the alleged offender is usually able to raise a reasonable doubt as to the mental element of dishonesty by claiming that he or she thought that there was enough money in the account. The DPP and the police have found it very difficult to disprove such claims beyond a reasonable doubt, which is a very high criminal standard. That is in most cases. Only the defendant can know

what he or she believed at the time. So, there is currently no effective sanction on passing valueless cheques. Most small business people do not have the time or resources to pursue the alleged offender through the Small Claims Court to obtain proper payment.

The amendment will deter people from presenting cheques they know will not be honoured by placing the onus of proving the absence of dishonesty onto the person who has passed the valueless cheque. All that will do is require the person to do more than just claim that he or she thought there was money in the account; he or she will need to justify the basis of that claim. This is not earth shattering stuff; it is not rocket science. We do have reverse onuses of proof in a number of matters, and these are proved on the civil standard of balance of probability.

If someone bona fide happens to be charged and has to go through a police process and a DPP process—our police and DPP are pretty reasonable in terms of not charging people who have a real excuse—it would not be particularly difficult for them to discharge that onus in court, if they actually got there.

Mr Stanhope's amendment totally defeats the purpose of the proposal, and I do not think the opposition understands why the government has proposed the new section. I would say to members: if you do not want to vote for mine, knock his out, because his amendment would further complicate the law and make it even worse than it is. If you want to have the status quo, vote against ours and vote against his as well. If you vote for his amendment, you are really going stuff up the law and we will be back here in three months time trying to sort it out. So if you want to keep the status quo, you are best off voting against both amendments.

As I have previously explained, the whole point of our amendment is to place the onus of disproving dishonesty on the person who has passed the valueless cheque. Otherwise, it is far too easy for a defendant to evade liability, merely claiming that he or she thought the sum would be paid.

People have not demonstrated a real understanding of the difficulties faced by small business people, who are given valueless cheques regularly and are basically told by the police that there is no point pursuing it because the alleged offender will not be convicted. There would be absolutely no point in this Assembly enacting a new valueless cheque offence that contains all the same shortcomings as are apparent in the existing provisions.

If you want to keep the status quo, oppose Mr Stanhope's amendments and you can oppose ours. But I would strongly urge members to support our amendments; you will be doing small business a favour. We are all occasionally in a situation where we might write a cheque when there is no money in the account. Commonsense dictates that that is something any honest person can sort out. In all my years as prosecutor and defence counsel I have not seen too many honest people in court for offences like this. It simply does not happen.

MR KAINE (11.16): I agree with Mr Stanhope on this question. Wouldn't the administration of the law be wonderful if we could always say that anybody picked up for any alleged offence has to prove their innocence? The prosecutor does not have to

prove guilt, but the person who is alleged to have committed a crime has to prove their innocence. It does not matter whether it is murder, burglary or passing a valueless cheque. The presumption always is that you are guilty and you have got to prove that you are not.

I cannot think of any more perverse law than that, and this is a typical example of trying to pervert the law. There used to be a presumption of innocence unless you were proven guilty. I do not where that went to, and I cannot understand why the government would put forward the proposition in connection with this issue that you are automatically assumed to be guilty unless you can prove you are innocent. It seems to me to be a total reversal.

The Attorney-General, in responding to comments of the scrutiny of bills committee on this particular point, made it quite clear. He says that the intention of the provision is to confer a legal onus on the defendant. Why? Mr Attorney, it is an easy statement to make, but you have not justified it. You have not justified your tendency to reverse the onus of proof.

It seems to me that some members of this place are inconsistent. It is only an hour or so ago that we were looking at a provision about fingerprinting or photographing all 16 or 17-year-olds on the off-chance that you might catch one who had committed a previous offence. The Assembly rejected that proposition, but to me this is identical. That one assumed some form of guilt; therefore, it justified the police officer taking that course of action. It is no different in principle to what is being proposed here.

It is beginning to permeate the law: you are automatically guilty unless you can prove your innocence. I am surprised that the other one got through, but it looks like this one will not because Mr Osborne has picked up the flaw in it. I support what Mr Stanhope is proposing.

MR RUGENDYKE (11.19): I am aware that there is a need for a provision to deal with valueless cheques. I know of a business in Belconnen that has had about 60 cheques that are valueless. The police find great difficulty in proving dishonesty, so a specific offence for valueless cheques is important. Mr Kaine has convinced me that it is wise to support Mr Stanhope's amendment because the reversal of the onus in this case is over the top, and I agree.

MS TUCKER (11.20): The Greens are also supporting this amendment. Mr Stanhope addressed the issue in some detail at the in-principle stage. The Commonwealth Criminal Code covers the issue of fraud comprehensively and directly. I do not see how the government has made the case that the only feasible strategy to deal with people writing out valueless cheques is to reverse the onus of proof.

In a perfect world, where the law will only pursue people who are trying to get away with something and then get them to prove they were not, it might seem like a good approach. For countless people whose relationship with the law, with government, with institutions and with society is tenuous or uncomfortable, whose economic survival is tenuous and whose belief in themselves is at best variable, a law which makes it a criminal offence to bounce a cheque is confirmation that we do not have their interests at heart.

The presumption of innocence is at the heart of our justice system. If the government had thought to include a wider group in its crimes law working party, we might have ended up with a fairer result. It appears that we will not have this particular proposal supported in the Assembly, so that is at least a good thing.

Question put:

> That **Mr Stanhope's** amendment be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Amendment agreed to.

Clause 13, as amended, agreed to.

Clauses 14 and 15, by leave, taken together and agreed to.

Clause 16.

MR STANHOPE (Leader of the Opposition) (11.26): I move amendment No 4 circulated in my name *[see schedule 4 at page 2871]*.

Mr Speaker, this amendment is in relation to police powers to stop and search. The section heading is "Stopping, searching and detaining people". Upon reading this proposed new section, it becomes quite clear why the Attorney did not deign to consult the legal profession, the Legal Aid office or anybody else with an interest in the rights of citizens.

Once again, it is a worry, in relation to this whole suite of amendments, that there is no evidence to justify the need for such a fundamental change to police powers of stop and search. There is no decent explanation or justification of why the police feel that they need to so fundamentally change their powers of stop and search.

It is not an issue that has been raised with me. It seems to me that the police have managed to cope without these powers very well. They are well used to obtaining sufficient evidence to arrest a person without seeking a warrant. The Attorney will be aware that I sought information through a question on notice in relation to this. In the past three years the police have managed to arrest 3,800 people without a warrant. It

does not indicate that the police are having a problem when they have managed to arrest over 1,000 people a year without a warrant.

If the police cannot obtain sufficient evidence for an arrest, they can obtain sufficient for a search warrant that will allow them to fill in the gaps in the case. Those powers will still be covered in this section. This section permits a police officer—this is the change we are making here—to stop and search any person whom the officer reasonably suspects, which is a pretty low test itself, of being a petty thief. There is no need for the officer to catch the suspect in the act, no need for the officer to check the basis for his suspicion and no need to attempt to convince a doubtful magistrate to issue a warrant.

So what is a reasonable suspicion? Is it when a police officer sees a group of young people leaving a store with their hands in their pockets looking around laughing and poking each other? Is it reasonable for the police officer to suspect in those circumstances that they are shoplifters? Is it reasonable in those circumstances to stop them and make them turn out their pockets? And when they refuse and get sullen, cheeky or obdurate, is it then appropriate for the next step to be taken and have them charged with resisting an officer?

There is an existing power to stop and search a vehicle that has some safeguards, and I am prepared to support a power to stop and search persons that contains similar provisions. That is why I am moving this amendment. The first safeguard is that the power can only be used without a search warrant if it is necessary to use the power to prevent the thing being concealed, lost, or destroyed. The second safeguard is that circumstances must be serious and urgent enough to justify not obtaining a warrant.

MR STEFANIAK (Minister for Education and Attorney-General) (11.29): Mr Stanhope's amendment, which I will deal with first, will restrict personal searches to where the officer reasonably "believes"—I will come back to that because he is actually putting in a higher standard than what is in the existing section—that "a person is carrying or has in his possession a thing relevant to an indictable offence", that it is necessary to search the person "to prevent the thing from being concealed, lost, or destroyed" and that it is necessary to search the person without a search warrant "because the circumstances are serious and urgent".

The government opposes that amendment. The amendment adopts the wording of the current section 349T of the Crimes Act, which is the section dealing with searches of conveyances. But it raises the threshold from "reasonable suspicion" to "reasonable belief", so that is a real problem. The AFP have advised that the current wording of 349T is overly restrictive and unnecessarily hinders its members in their law enforcement duties. Mr Stanhope's amendment actually raises the threshold further, to a "reasonable belief", which would only exacerbate the current difficulties with the provision. If you want to make the work of the police even harder, back Mr Stanhope's provision.

The Australian Law Reform Commission considers that a "reasonable suspicion" test is an appropriate test for powers of this kind and that the proposed amendments based on section 357E of the New South Wales Crimes ACT, requiring police to apply for search warrants in all but the most urgent of circumstances, is a very ineffective use of

police time and leads, in many instances, to the destruction of evidence. The proposed section 349SB, which stipulates that the person may only be detained for as long as is "necessary and reasonable" to conduct a search, will ensure the person being searched will be inconvenienced as little as possible.

In clause 16, which inserts section 349SA, the power to enable the police to stop and search people reasonably suspected of having "stolen or unlawfully obtained" goods or "a thing used, or intended to be used, to commit an indictable offence", there are great restrictions on the current police powers to search people. Unless they have been arrested, only people reasonably suspected of carrying a knife in a public place or school (section 349DB of the Crimes Act) or reasonably believed to be in possession of a firearm connected with an offence (section 75 of the Firearms Act) can be searched without a warrant.

The Australian Law Reform Commission and the Criminal Justice Commission deemed that search powers in relation to serious or indictable offences are justifiable. Providing search powers in relation to goods reasonably suspected to be stolen or otherwise unlawfully obtained is similarly justifiable.

Given how rapidly stolen goods can be disposed of and the level of property crime in this territory, it is appropriate to provide police with the power to stop and search persons reasonably suspected of carrying such goods.

These amendments are based on section 357E of the New South Wales Crimes Act, and the Australian Law Reform Commission considers that a reasonable suspicion test is an appropriate test for powers of this kind. While there is no standard or fixed rule as to what are reasonable grounds for suspicion, an off-sided test is whether a reasonable person would fairly suspect the matters in question for all the circumstances. It is clear that reasonable suspicion is something more than mere suspicion, and it requires a legitimate basis for the search.

The case law that can be cited for the information of members includes *R v Chan* (1992) 28 NSWLR 421:

> Reasonable suspicion is a suspicion based on facts which, objectively seen, are sufficient to give rise to an apprehension of the suspected matter.

Also, in *Tucs v Manly* (1985) 62 ALR 460:

> To say that a suspicion is reasonable does not necessarily imply that it is well founded or that the grounds for suspicion must be factually correct.

Another case is *R v MacLeod* (1991) 61 A Crim R 465, which states:

> Although suspicion has a lesser standard of conviction than belief, there must still be a real foundation.

Also, case law from overseas in relation to the analogous concept of reasonable cause suggests that reasonable suspicion must be something more than just mere conjecture. Rather, it must be the suspicion of a reasonable person which is warranted by facts from which inferences can be drawn.

If a police officer is accused of exercising a power unlawfully it would be up to the officer to refute that accusation. As is the case currently, it is ultimately up to the courts to decide whether an officer's actions in any given case has been lawful in the circumstance. We have already seen what happens when police abuse their powers but, ultimately, it is for the court to see whether they deem the officer's action to be reasonable.

In regard to searches, it is necessary to allow for frisk searches as well as ordinary searches as the latter may not reveal hidden items. An ordinary search means a search of a person, or of articles in the possession of a person, which might require the person to remove his overcoat, coat or jacket. A frisk search means a search of a person conducted by someone quickly running their hands over the person's outer garments. What Mr Stanhope is aiming to put in is a higher test than what is there at present. I refer members to the other matters I have raised in relation to this and the very real problem of property crime that we have in the territory.

MS TUCKER (11.35): This amendment ensures that the power to stop, search and detain people is only used in regard to people concealing or having about their persons something pertinent to fairly serious indictable offences and that such powers can only be used if the police officer believes there is a real imperative to conduct the search there and then.

This is another instance where the police believe it would be more convenient to be able to stop and search people if they suspect them of carrying or hiding anything illegal or stolen. End of story. I am sure they are right: it would be more convenient. But the Greens' chief concern here is that these powers can be used to harass people who look like criminals, who may have been in trouble with the law and who are not particularly liked by the police—generally people who are already are more likely to be noticeable to police. There is such a stereotype in that.

People in this place have incredibly different experiences of what is happening in society. We have often heard from members that we have the best police force in Australia. We might have the best police force in Australia, but if we talk to the Aboriginal community, the youth sector or people in multicultural groups, it is not all nice. If you are in our city at night and you are one of those groups of people, you can be harassed by police.

You just have to be young to get harassed or looked at in a funny way by some police. That is the reality, and I find it very odd that some people in this place do not seem to know that. Either they are not looking, they are not asking or they are pretending they do not know. It is a reality; it is a reality Australia wide; it is a reality everywhere.

Of course you have police harassment occurring, and of course you hope there is not very much of it. Maybe we have less of it but, whenever you talk about extending police powers in any way, you have to know that certain groups are going to suffer as a result of that. That is the truth. Obviously, we are concerned when we see a government moving more towards giving police power when we know that this is the reality, and we have to resist it. It is not only not necessarily going to achieve anything in terms of crime but it can also have implications for society more broadly.

As I have already said, we do not want to further marginalise those groups of people. That is the very opposite of what we want. We want to find ways of being more inclusive in our society so that particular groups in our community do not become more and more defensive. They feel more and more of a need to group together because they feel as if they have become the other in our society, and that is not a good thing for anybody in the long run.

I know that as a member of this Assembly I get a very different view and experience of the forces of law and order in Canberra than other people in this place, Mr Stefaniak in particular. In the absence of any hard, statistical data or strong, coherent arguments and in the absence of any tight regime to oversight the application of these extended powers, I cannot support this further shift in the balance of power towards the police.

MR MOORE (Minister for Health, Housing and Community Services) (11.39): Most of us would agree that the vast majority of police officers would use this quite well and judiciously. Unfortunately, we suspect that there is a big enough proportion who would be prepared to misuse legislation that gives them the ability to conduct a frisk search, having stopped and detained a person, in a way that harasses. For that reason I am not prepared to support clause 16.

MR STANHOPE (Leader of the Opposition) (11.40): I agree with the sentiment expressed by Mr Moore. In this place we are all, quite justifiably, pleased with the standard of policing in the ACT, and we do not like to raise the spectre of powers being abused. But that is our role and responsibility: to acknowledge that unfettered power will inevitably be abused. It is inevitable. All our experiences tell us that is what happens. This is not a complaint about the AFP or the standard of policing here; it is just a fact of life. I start from that position. We have a responsibility to continue to be vigilant about these basic rights. Law should proceed to some extent—not on the basis that if you are not guilty you have got nothing to worry about. Laws such as these have to proceed to some extent on the basis that we need to protect the basic rights and liberties of the worst of us because there but for the grace of God go all of us.

The Attorney has advised me, in answer to a question I put on notice, that in the last three years the police have arrested 3,800 people without a warrant. In the last three years the power has worked: they arrested 3,800 people without a warrant. They were able to meet the testing standard. The Attorney, in bringing forward an amendment like this, needs to show in what circumstances, in what cases and in how many situations, over and above the 3,800 arrests made without a warrant, the police have desperately needed these new powers. You just have not explained it.

Before the Assembly embraces these sorts of changes, there should at least be some sort of inquiry. Once again, I am concerned that the only people the government consulted in relation to this change were the police and the prosecutors. There was no countervailing view. If you want to make these really fundamental changes to police powers you are also making them to the rights of citizens. That is the corollary. We are enhancing the powers of the police, and in enhancing the powers of the police we are diminishing the rights of the people.

If you are going to do something as fundamental as that, at least refer it to the justice committee, call for some submissions, have a decent debate, get the community involved and convince us that you need to give the police these extra powers. Convince us that you need to detract from the rights that we and those we are here making decisions for currently have. Prove to us that we should reduce the rights of all the citizens of Canberra because the police desperately need these increased powers. You just have not done it.

MR STEFANIAK (Minister for Education and Attorney-General) (11.43): I do not know if I could ever actually convince Mr Stanhope, but I will just point out for members that what Mr Stanhope is actually proposing is to change the current section of the Crimes ACT—the one that has existed for some time—from: "This section applies if a police officer suspects on reasonable grounds—

Mr Stanhope: That is what my amendment says—"on reasonable grounds". It is not a particularly onerous test.

MR STEFANIAK: It is, unfortunately, Mr Stanhope. You make it virtually impossible. I am talking about the current law—not even what I am trying to amend and trying to put in here—at section 349T of the Crimes Act, which says:

> This section applies if a police officer suspects, on reasonable grounds, that—

and then you have your three matters. You say:

> This section applies if a police officer believes, on reasonable grounds, that …

Again, you have got "believes" rather than "suspects", which is a much higher standard of proof. So you are making even the existing law harder for police, which I think needs to be pointed out. That is over and above the improvements which we are seeking to make here to the existing law.

MR MOORE (Minister for Health, Housing and Community Services) (11.45): It strikes me that Mr Stefaniak has a point. I have looked through this, and I am quite happy with the notion of changing "believes" to "suspects". What I have just written out I am prepared to circulate, which is to omit, Mr Stanhope, your word "believes" and replace it with the word "suspects". That bring us back to the original thing but uses your tests. That would be reasonable, and I would ask for that amendment to be circulated.

It is not difficult. Mr Stanhope's amendment No 4 currently reads:

> This section applies if a police officer believes, on reasonable grounds …

The amendment to your amendment that I have just requested to be circulated would be:

> This section applies if a police officer suspects on reasonable grounds …

Then your tests, I think, are quite reasonable. That does make a slightly easier test.

MR OSBORNE (11.46): Mr Speaker, I am not quite sure what Mr Moore is attempting to do.

Mr Moore: It puts the test back in.

MR OSBORNE: Just explain it. The government's bill has "suspects on reasonable grounds". It is subsection (1) (a), (b) and (c).

Mr Stefaniak: You are totally duplicating section 449T, Michael. You will add that section twice, that is all.

Mr Moore: I am taking "believes" out and putting "suspects" in.

MR OSBORNE: "Suspects" is already in the government's words.

Mr Moore: But Mr Stanhope's tests are quite different for it. That is why.

MR OSBORNE: Okay. I am quite happy with "suspects" over "believes". My understanding of the law in New South Wales, albeit it has been 10 years since I practised in my previous profession, is that the term is "suspects" rather than "believes". I would like to hear the Attorney's view on Mr Stanhope's amendment with Mr Moore's changes. They read quite reasonably to me, and I am happy to support Mr Stanhope's amendments with Mr Moore's amendment.

On the issue of "believes" and "suspects", I appreciate some of the concerns raised by Ms Tucker and Mr Stanhope about this. I, personally, have not been approached by either the police or the DPP about this bill, although my office has had a briefing from Mr Refshauge on the double jeopardy issue.

I have attempted to look quite carefully at the bill and the changes of Mr Stanhope, but I am prepared to give the police the benefit of the doubt on the issue of "suspects" versus "believes"—which I think Mr Moore will do as well. Obviously, it is something that is open to abuse, but in my experience, albeit an old experience, much of what police do is to suspect and then pursue what they suspect. But I do appreciate the concerns raised by Ms Tucker.

On a further reading I am quite happy to support Mr Stanhope's amendment with Mr Moore's change. I do not know what that will do to the numbers but, if anything, Mr Stanhope's (a), (b) and (c) enhance the section of the act and expand a little bit on what you had. So, if Mr Moore moves his amendment, I would be happy to support Mr Stanhope's.

MR RUGENDYKE (11.50): I am comparing—

Mr Stanhope: I quite agree. That test of "believes" and "suspects". In the end I come down to "suspects".

MR SPEAKER: Order! It is ten to 12. Mr Rugendyke.

MR RUGENDYKE: In comparing the substance of what is in the Attorney's legislation and the amendment of Mr Stanhope, I wonder why Mr Stanhope has taken out "(a) a thing stolen or otherwise unlawfully obtained"—that is the whole objective of the clause—and left in "(b) a thing used, or intended to be used, to commit an indictable offence". Perhaps Mr Stanhope can explain why he took out "a thing stolen or otherwise unlawfully obtained".

MR OSBORNE (11.51): I do not think Mr Stanhope heard Mr Rugendyke then. Mr Rugendyke asked why Mr Stanhope took out subsection (1) (a) from the government's proposed section of the bill, which says "a thing stolen or otherwise unlawfully obtained". I think that would fit quite reasonably with his amendment, perhaps as a (d). I am prepared to move an amendment to add "a thing stolen or otherwise unlawfully obtained". But there may be a reason why Mr Stanhope has taken it out.

MR MOORE (Minister for Health, Housing and Community Services) (11.53): I seek leave to speak again, Mr Speaker.

Leave granted.

MR MOORE: I move the amendment circulated in my name *[see schedule 7 at page 2884]*.

My interpretation of it, which may be different from yours, Mr Stanhope, is that you were lifting it to an indictable offence level. Therefore, it was not able to use these really quite draconian powers, which are appropriate in the right circumstances, for something very minor. "A thing stolen or otherwise unlawfully obtained" can be something very small. But if it is likely to be suspected in the test of being used with regard to an indictable offence, it is appropriate for the police to use stop and detain and conduct a frisk search—that level of power. It would be interesting to see if Mr Stanhope saw it that way when he originally put it.

By using "suspects, on reasonable grounds" we have, on the one hand, lowered the test for police. On the other hand, we are talking about rather significant powers, and that is why I would be reluctant to see (a) included in this one.

My first reaction was neither to throw this out completely nor just stay with the original law. Mr Stanhope has proposed that we recognise what Mr Stefaniak was trying to achieve but to do it not quite to the same standard. That is what I think this amendment achieves.

MR STANHOPE (Leader of the Opposition) (11.54): Mr Moore is right.

MR STEFANIAK (Minister for Education and Attorney-General) (11.54): If this is approved, it will be only marginally better than the current situation. A lot of items are goods reasonably suspected of having been stolen, and that is covered by subsection (1) (a) which Mr Osborne rightly reads out: "a thing stolen or otherwise unlawfully obtained". It would be unreasonably restrictive and would largely defeat the purpose if that were not included.

We could probably live with it if that were included. If Mr Osborne inserts that, I will accept Mr Moore's amendment to Mr Stanhope's amendment. I can read the numbers here, so I think that would be—

Mr Osborne: I do not know if they are going to accept it, though.

MR STEFANIAK: We will see. But if you move it, I will certainly be happy to support it.

Mr Osborne: Yes, but do you want to put (a) in?

MR SPEAKER: Order! I would draw your attention to the time and the importance of this piece of legislation. I am a bit concerned about the number of amendments that are flying around at this time.

MR RUGENDYKE (11.55): It is a simple question: why, without putting back "a thing stolen or otherwise unlawfully obtained", would someone be allowed to walk around with someone else's gold watch in their pocket?

MR SPEAKER: Minister, is something going to happen about this legislation? Or are we going to sit around talking?

Mr Stefaniak: We will probably sit around talking, Mr Speaker.

MR SPEAKER: Would it be too much to ask for somebody to make either a statement or a decision on this matter?

MR STANHOPE (Leader of the Opposition) (11.56): Yes, I will. On reflection, Mr Speaker, I think Mr Moore's amendment to my amendment is appropriate. And I am more than happy to support it.

Our instructions to the Office of Parliamentary Counsel were based very much on incorporating, within this particular provision, the provisions of the existing section 349T. But we made an error in our instructions. The draftsman faithfully followed the instructions, and we arrived at a position that we did not really intend. So, in fact, Mr Moore has quite cleverly returned us to the position that we intended in the first place.

We did propose, as Mr Moore has also explained, to raise the bar to capture within this particular provision more serious provisions than just anything "stolen or otherwise unlawfully obtained" in respect of the nature of the offence that might have been created by their having been stolen or otherwise unlawfully obtained.

That was the justification for it. A position has now been arrived at on this provision. If the existing paragraph (a) were incorporated into the amendments now jointly proposed by Mr Moore and me, it would receive at least majority support within the Assembly. The Labor Party is quite happy to compromise to that extent. Although not accepting absolutely the wisdom of drawing down the power to stop and search, in this case, in the interests of improving the government's proposal, we will support both amendments.

MR STEFANIAK (Minister for Education and Attorney-General) (11.57): I do not want to be a killjoy, but Mr Stanhope's amendment has a series of "ands" after the subsections and this one does not. I do not know if that is something the clerks can rectify at the end. It becomes a bit unworkable when it has got "and", "and", "and". I think that can be corrected by the clerks.

Mr Moore's amendment agreed to.

MR OSBORNE (11.58): I move the amendment circulated in my name to Mr Stanhope's amendment. It inserts the following new subclause (d):

> or a thing stolen or otherwise unlawfully obtained

MR KAINE (11.58): I have Mr Osborne's amendment in front of me. I think the thing will read in quite a strange fashion if we do what he has asked us to do. It seems to me that those words would have to be added to the end of paragraph (1) (a). It would then read:

> … that a person is carrying, or otherwise has in his or her possession a thing … relevant to an indictable offence … or a thing stolen or otherwise unlawfully obtained.

It has to go in there to make sense. If you stick it on the bottom as paragraph (d), it reads in rather a strange fashion.

MR STEFANIAK (Minister for Education and Attorney-General) (11.59): I think Mr Kaine is right. It should read:

> … that a person is carrying, or otherwise has in his or her possession a thing (the ***relevant thing***) relevant to an indictable offence … or a thing stolen or otherwise unlawfully obtained.

I think that is what Mr Kaine is saying, and that is how I am told the Clerk says it should read.

MR OSBORNE (11.59): I move the amendment which will be circulated in my name *[see schedule 8 at page 2884]*.

It now inserts the following words at the end of paragraph (1) (a): "or a thing stolen or otherwise unlawfully obtained".

Mr Osborne's amendment agreed to.

Friday 10 August 2001

Mr Stanhope's amendment, as amended agreed to.

MS TUCKER (12.01 am): I move amendment 3 circulated in my name *[see schedule 6 at page 2881]*.

This amendment ensures that if there does have to be a frisk search it has to be done by someone of the same sex. I would argue that a simple search in most instances would be enough to catch most items of stolen property, burglary tools and so on. If the suspicion is about something more serious, then the police may have to resort to taking the suspect to a police station and giving them the option of getting legal advice.

MR STEFANIAK (Minister for Education and Attorney-General) (12.02 am): Ms Tucker may be unaware but section 349ZZ of the Crimes Act already provides that, if practicable, frisk searches will be carried out by an officer of the same sex as the person being searched. Clauses 28 to 31 of the bill make it easier for the police to comply with this requirement. It may not, however, be practical or desirable to require a person to wait until an officer of the appropriate sex is available to conduct a search.

It should also be noted that a frisk search means a search conducted by quickly running the hands over a person's outer garments and an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

While it is acknowledged that a search by an officer of the same sex is preferable, it would be unnecessarily restrictive to require it in every case. For that reason, the government would oppose the amendment, although I do point out that in nearly all instances that would happen.

Question put:

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

The Assembly voted—

Ayes 10		Noes 7	
Mr Berry	Mr Osborne	Mrs Burke	Mr Smyth
Mr Corbell	Mr Quinlan	Mr Cornwell	Mr Stefaniak
Mr Hargreaves	Mr Stanhope	Mr Hird	
Mr Kaine	Ms Tucker	Mr Humphries	
Mr Moore	Mr Wood	Mr Rugendyke	

Question so resolved in the affirmative.

Amendment agreed to.

MS TUCKER (12.09 am): I move amendment No 4 circulated in my name *[see schedule 6 at page 2881]*.

This amendment is an echo of the review and reporting requirements I moved to have added to the move-on powers but did not get support for. Given that we are allowing police additional powers to stop, search and detain suspects, I think it is only

appropriate that we ensure that some coherent record is kept and some review and analysis of the impact of these new powers is made.

MR STEFANIAK (Minister for Education and Attorney-General) (12.11 am): We oppose the amendment on the same basis as before. Ms Tucker's restricting of the powers so much is also a factor here. But we oppose the amendment for the same operational reasons as those in respect of the move-on powers. It is unduly restrictive.

Amendment negatived.

Clause 16, as amended, agreed to.

Clause 17 agreed to.

Clauses 18 and 19, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (12.12 am): The Labor Party will oppose clause 18, to be consistent with the amendments made to clause 16, which reflects the existing section 349T, except for the amendment made by Mr Osborne. The point I made before was that my amendment to clause 16 was based on the existing section 349T, which talks about a police officer suspecting. This clause should be opposed in order to maintain consistency with new section 349SA, which reflects existing section 349T. It is important, therefore, that this clause be opposed to maintain consistency.

MR STEFANIAK (Minister for Education and Attorney-General) (12.14 am): I am advised that if you want to be consistent, Mr Stanhope, you need to insert at the end of 349T (1) (a) in the existing act "or a thing stolen or otherwise unlawfully obtained". Is that right, Michael?

Mr Moore: Yes.

MR STEFANIAK: Accordingly, I move the amendment circulating in my name. *[see schedule 5, part 2, at page 2879]*.

MR SPEAKER: Order! What are we planning to do?

MR STEFANIAK: I am moving that amendment.

MR SPEAKER: It has to be circulated.

Mr Osborne: What are you amending?

MR STEFANIAK: This is to be consistent with what we amended before. I have to move that to what Mr Stanhope is doing. He is deleting my section 349T (1)—

Mr Osborne: And putting his one in?

MR STEFANIAK: No. It reverts back to the old one. The old one needs to be amended.

MR SPEAKER: Mr Minister, might I suggest this is gibberish. It is not fair to members unless they can have the amendment in front of them. Might I suggest that we wait. Minister, which clause are we amending?

MR STEFANIAK: We are amending 349T (1) (a) by adding those words. That makes it consistent with the amendments.

MR SPEAKER: Are you amending clause 18?

MR STEFANIAK: Yes.

MR SPEAKER: Would you like to speak to it, Minister?

MR STEFANIAK: No, I have already done that.

Amendment agreed to.

MR SPEAKER: The question now is that clause 18, as amended, be agreed to. We have amended only clause 18. We have not amended clause 19.

MR STANHOPE (Leader of the Opposition) (12.19 am): In order for the Assembly to be consistent in its application in relation to 349T, it needs to oppose clause 18 and it needs then to agree to the Attorney's amendment. But we have just added that to the existing clause. I do not know how it is done, Mr Speaker. We need to oppose clause 18 and we need then to agree to the amendment.

MR SPEAKER: To follow Mr Stanhope's suggestion, I will put the question that clause 18, as amended, be agreed to, and it will be defeated, if we are to follow Mr Stanhope's suggestion. There being no objection, I will follow that course.

Clause 18, as amended, negatived.

MR SPEAKER: Is it the wish of the Assembly to suspend for 10 minutes? There being no objection, the chair will be resumed in 10 minutes.

Sitting suspended from 12.25 to 12.35 am

Proposed new clause 18A.

MR STEFANIAK (Minister for Education and Attorney-General) (12.35 am): I move an amendment to insert a new clause 18A in the bill *[see schedule 5, part 3, at page 2880]*.

Proposed new clause 18A agreed to.

Question put:

> That clause 19 be agreed to.

The Assembly voted—

Ayes 5	Noes 4
Mrs Burke	Mr Berry
Mr Cornwell	Mr Quinlan
Mr Hird	Mr Stanhope
Mr Rugendyke	Ms Tucker
Mr Stefaniak	

Question so resolved in the affirmative.

Clause 19 agreed to.

Clause 20 agreed to.

Mr Stanhope: I take a point of order, Mr Speaker. I need guidance on procedure for returning to clause 19. It is not just a question of recommitting. Many of us did not realise that the suspension of the sitting had ended and debate had recommenced. Clause 19, which nine of us voted on without debate, should be recommitted. I do not know whether just the vote can be recommitted. This is a very significant provision. We owe it to the bill and to the issue to debate clause 19. I am not quite sure how that is done.

MR SPEAKER: I said that we would suspend until 12.35. If people cannot understand their watches, that is their problem. However, I also understand from Mr Kaine that the division bells were not ringing upstairs.

Mr Smyth: Mr Speaker, obviously there was confusion on both sides. I think the vote should be put again under standing order 165.

MR SPEAKER: Standing order 187 states:

> At the conclusion of consideration of the detail stage of a bill, a Member may move that the bill be reconsidered either in whole or in part.

Mr Berry: Mr Speaker, that will be satisfactory. We can do it at the conclusion.

Mr Moore: No, don't do it at the conclusion of the bill. Bugger that. We have got 165. There is confusion concerning the numbers reported. I am confused about the numbers reported, Mr Speaker. I am totally confused about it. I am telling you I am confused about it. It cannot be otherwise corrected, so we should proceed to another vote.

Mr Stanhope: Mr Speaker, the amendments to clause 20 are consequential on clause 19. It would make a nonsense for us to debate clause 20.

Mr Berry: Mr Speaker, I think the only way we can recommit is to suspend standing orders.

Mr Moore: Do it by leave, Wayne. We can do whatever we like by leave.

MR SPEAKER: Is it the wish of the Assembly to reconsider clause 19? There being no objection, we will reconsider the clause 19.

Clause 19—reconsideration.

MR STANHOPE (Leader of the Opposition) (12.46 am): I regret all the confusion. Clause 19 involves the first of a series of amendments by the Attorney to permit a police officer to arrest a person if the police officer suspects, rather than believes, the person has committed or is committing an offence. This is a very significant change to the standard. This is one of the more significant amendments in the bill. It is a major change in the powers of police in relation to arrest. It is a significant lessening of the test.

All of the submissions I have received oppose these amendments. We have now been going for four or five hours, and people may have forgotten, but, as I said, I received a number of submissions from people other than those consulted by the Attorney in proposing these amendments. The Law Society, for instance, points out that the deprivation of liberty is the most serious action that may be taken against a person and it should not occur without clear and identifiable justification. Suspicion may be aroused without the police officer being required to check allegations of facts, whereas a belief would require some checking. This is a significant issue we are debating here—a move from "believes" to "suspects" as the lesser standard which a police officer, if this proposal is passed, will have to satisfy.

The Attorney has made great play about there not being a significant difference between the meaning of "suspicion" and the meaning of "belief", particularly if both are qualified by having to be reasonable. All that his protestations along that line have done is arouse suspicion about why he wants to make the change if it is not significant. The Attorney cannot have it both ways. He cannot argue that it is not significant to change from "believes" to "suspects", particularly if he does not give us any justification for lessening the standard or the test a policeman needs to satisfy in order to arrest a person.

We might all have some suspicions about why the Attorney would wish to lower from "suspects" to "believes" the standard or the test that a policeman needs to satisfy before arresting somebody. He says the power is necessary to enable police officers to act swiftly in solving crime. He says that much of our crime is committed by repeat offenders. These statements need to be judged against what is happening on the ground.

Over the past three years in the ACT, 3,849 people have been arrested by the police without a warrant, and 3,066 have been arrested on warrants of all types, including warrants for outstanding fines. This is information supplied to me by the Attorney. These figures do not indicate that there is any particular problem using the existing provisions. This amendment and all those that follow it—and there are a range of amendments after this also changing the test from "believe" to "suspect"—should all be opposed, and will be opposed by the ALP.

The Attorney has provided no justification for this reduction in standard. Mr Osborne touched on this before. I am the shadow Attorney-General and the Leader of the Opposition, yet I have not been approached by the AFPA, a single member of the Australian Federal Police or anybody with a suggestion that the police cannot handle the fact that they can arrest only on the basis of a reasonable belief and that they need the standard to be lowered so that they need only reasonably suspect. The Attorney has not provided any evidence that this is a problem. He has not provided any examples of situations in which the police cannot cope with existing powers.

These are such fundamental principles in relation to the operation of the criminal law that they should not be toyed with in this way without serious investigation and inquiry and without full consultation. As I said before, on such a fundamental issue as this, the Attorney did not consult the Bar Association. He did not consult the Law Society. He did not consult the Aboriginal Justice Advisory Committee. He did not consult a single community legal centre. He did not consult the Domestic Violence Crisis Service, the Rape Crisis Service or any of the other women's services around town. He did not consult with any youth advocacy service. He did not consult with the Legal Aid Commission. He did not consult with his magistrates.

He did nothing but ask the AFP, "Would you like us to reduce the standards you have to meet before you can arrest somebody?" Guess what the AFP said. They said, "Oh yes, beauty, ripper." What would you expect them to say, Attorney? You asked the police, "Would you like a section to make it easier for you to arrest people?" Then you said to the DPP, "The AFP think they would like to be able to arrest people on a far lesser standard than is currently applied." They said yes. I have a bit of a bone to pick with the DPP about this. He said, "Oh yes, Bill, mate, give them what they want. Let them have whatever they want. Just agree with them."

Mr Stefaniak: That is pathetic, Jon.

MR STANHOPE: Bill, that is what you did. You consulted the coppers and you consulted the prosecutors, and you ignored everybody else on a fundamental issue. It is disgraceful what you have done in relation to this bill. This is the consulting government! This is the government that consults!

The police ask you to give them what they want, and you do. You ignore everybody else. These issues should have been referred to Mr Osborne's committee. That is where all these issues should have gone, so that there could have been some decent community involvement in what you proposed to do. These adjustments to the powers of the police simply cannot be supported without adequate community consultation and adequate consultation of everybody in this community who has an interest in these issues.

MR HARGREAVES (12.53 am): I would like to ask one question of the Attorney-General through you, Mr Speaker. This Assembly commissioned an inquiry into policing services for the ACT, to find out whether or not those services were adequate. Why is it that that inquiry was ignored when you have such fundamental changes being mooted here tonight?

MS TUCKER (12.54 am): The Greens are also concerned about this. The argument used to justify the change from "belief" to "suspect" is that if the police unreasonably suspect you of something you will win in court. In the meantime, you can have your car broken into, you can have your house broken into and you can be arrested, all without a warrant.

I appreciate that to form a reasonable suspicion it must be based on more than conjecture; it must be warranted by facts from which inferences can be drawn. In other words, it has to be based on something. All the recent argument in Sydney has been about ethnically based gangs and the consequent increased level of suspicion faced by some young men—Aboriginal, Middle Eastern and South East Asian. The stories that those of us in Canberra who take an interest in understanding what it is like for different groups in our community, particularly marginalised groups, hear demonstrate the problem of resorting to suspicion. I think it is of grave concern that we would move in this direction. I think members of this Assembly should not be supporting it.

MR KAINE (12.55 am): I draw people's attention to the explanatory memorandum that came with this bill. If they had read that, they might have understood better what the Attorney-General was trying to do. I do not say that I agree with it, but it does explain. It says:

> This clause replaces the reasonable belief test with a reasonable suspicion test.
>
> Police may often encounter a suspect shortly after an offence has occurred, without having had the opportunity to conduct thorough investigations. While they may be unable to form a reasonable belief, police may be able to form a reasonable suspicion that a particular person committed the crime …

So there is an explanation, although it is not clear or obvious to me, after having read that, why we need to accept this change in standards. But it is interesting that there is an attempt to explain it. I am not certain that some people have read that. Having read it, I am still not convinced.

MR STEFANIAK (Minister for Education and Attorney-General) (12.56 am): It is an important standard. It is an important change to the act, and the government makes no bones about doing it. I am somewhat appalled to hear Mr Stanhope go on. He does not have any faith in the police or the DPP. The committee was set up to see what needed to be changed. It was not something that I suggested, Mr Stanhope. It was suggested to government.

Police in New South Wales and Queensland may arrest on reasonable suspicion. Allowing arrest on reasonable suspicion reflects the realities of community policing. Police often encounter a suspect shortly after an offence has occurred, and they may be able to form a reasonable suspicion that that person committed the crime.

For example, in relation to a burglary, a person may fit the description given by a witness. They may be in the near vicinity and they may indeed be known to police, for example, as a repeat offender. That is not enough at present. It is all right in Queanbeyan and it is all right in other parts of New South Wales, but it is not all right here. Here the police cannot do anything.

It is appropriate to allow police to arrest the person on that basis. If we are going to be serious about tackling crime in our community and if we are going to be serious about trying to continue to reduce burglaries, we need to give the police reasonable tools to do the job. It is no problem in New South Wales; it is no problem in Queensland.

A number of checks and balances remain. I will come to those in a second. The scrutiny of bills committee did not have any substantive comments to make on the proposed change to the reasonable suspicion test. They pointed out that the reasonable suspicion test is found in documents such as the European Convention on Human Rights.

The existing time limits on detention of arrested persons for the purposes of investigation will remain. With the suspect in detention, however, there is a reduced likelihood of evidence being destroyed and/or other people connected with the offence going into hiding while the investigations are under way.

Reasonable suspicion is something more than mere suspicion. At least Ms Tucker is starting to appreciate that. It requires a legitimate basis for arrest; it requires a legitimate basis for search.

The comments I have already made in relation to the reasonable suspicion test in the context of search powers also apply here. Police have indicated to the government that there have been many instances where they would be able to apprehend offenders with a reasonable suspicion test, especially in relation to burglary. But with the very high required standard of reasonable belief they are simply unable to do so. They do not have the power. There is no way they can apprehend that person. That person can simply walk, and of course it does not take long to get rid of stolen goods.

This brings us into line with other states. I hark back to the fact that it is found in the European Convention on Human Rights. It is not rocket science, but it is very important if we are to be serious in addressing crime. I am very disappointed that those opposite are putting up obstacles to this very commonsense improvement to the Crimes Act.

MR STANHOPE (Leader of the Opposition) (1.00 am): Mr Speaker, because the Attorney refused to consult with anybody around the town that would have a view contrary to his, I think it is important that I let him know what the Law Society, that rabid left-wing band, would have said to him had they been consulted. They would have said to the Attorney, had he bothered to ask them or to involve them, that arrest based on suspicion is a significantly different test from arrest based on belief. That is from the Law Society, that rabid mob of lawyers, those pinko lefties.

Mr Stefaniak: You might have a bit of a vested interest, Jon.

MR STANHOPE: Police and prosecutors do not have a vested interest, only the Law Society! The Law Society would have told you:

> Suspicion may be aroused without any checking of allegations or fact as is necessary to found reasonable belief. Is it intended that a suspicion based on a, perhaps unfounded, generalisation is sufficient to constitute a "reasonable

> suspicion"? For example, "a young person with body-piercing and multi-coloured hair sitting in a laneway in Civic at 3am is probably doing something questionable" would enable an officer to stop and search that person where there are no other indicators of illegal behaviour.

Mr Stefaniak: You have no confidence whatsoever in the police. How disgraceful for the potential Chief Minister.

MR STANHOPE: This is a quote from the Law Society. I am telling you what the Law Society would have said to you.

Mr Stefaniak: I have read it.

MR STANHOPE: Why are you challenging me about something the Law Society said, if you have read it? This is what the Law Society said. Just sit and listen. Stop being so embarrassed, Attorney. Stop blushing so obviously. I continue:

> The test for a "reasonable belief" is usually related to facts surrounding the individual or specific circumstances of the incident.
>
> We do not see the need for a provision making it easier for police to arrest a person. There is no demonstrated necessity for the change and we oppose the changes, noting that the police already have sufficient power to stop and search and arrest when they have reasonable grounds for such action.

Those are the views that the Law Society would have given you, Attorney, had you bothered to ask them, had you bothered to consult, had you been bothered to ask the community and those in the community who have views on these issues what they thought about these things.

Whenever somebody stands up in this place and suggests that we as a legislature have a right, an obligation and a duty to test whether or not the powers we are giving to the police are reasonable and justifiable, somebody from that side jumps up and says, "You do not trust the police." We have sat through the Fitzgerald inquiry. We have sat through an inquiry in New South Wales. Last week we watched *Blue Murder*. It may be that some people around here have even met, at some stage in their lives, Roger Rogerson, police murderer, recipient of the police commissioner's commendation before he went out and shot his police friends, those who were not corrupt. We have all heard about Terry Lewis, police commissioner jailed for corruption. We have all heard about all those other policemen, including commissioners, and ministers for police jailed in New South Wales. I think it is reasonable to suggest that that level of corruption in police forces is not just a result of endemic problems within police forces. It is a result of sycophantic politicians not being prepared to do their duty, to show some guts, and to stand up and say, "We have an obligation to ensure that the balance is right." Show a little bit of moral courage in relation to your duties to the people of this place.

Question put:

> That clause 19 be agreed to.

The Assembly voted—

Ayes 9		Noes 8	
Mrs Burke	Mr Osborne	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Rugendyke	Mr Corbell	Ms Tucker
Mr Hird	Mr Smyth	Mr Hargreaves	Mr Wood
Mr Humphries	Mr Stefaniak	Mr Kaine	
Mr Moore		Mr Quinlan	

Question so resolved in the affirmative.

Clause 19 agreed to.

Clauses 21 and 22, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (1.08 am): I repeat the points I made, for the sake of the record, Mr Speaker.

Clauses 21 and 22 agreed to.

Clause 23 agreed to.

Clauses 24 to 27, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (1.08 am): The Attorney's amendments to the Crimes Act, as set out in clauses 26 and 27 of the bill, relate to power to enter premises to effect arrest. Again, I think the scope of these amendments is, in the words of the Law Society, breathtaking. I think the writers of *The Castle* would have to re-script the film if this legislation passes the Assembly, as it effectively would render our homes as other than our castles.

The current power of a police officer to enter premises to effect an arrest is limited to circumstances where the officer has power to arrest without warrant on reasonable belief—this bill has already amended those words to "reasonable suspicion"—that an indictable offence is involved, and the officer believes that the person is on the premises.

However, I think with these amendments the Attorney and his supporters in this Assembly are giving the police open slather to enter any home at any time during the day or night. There is a minor limitation on the timing of the entry in that the police cannot enter a dwelling between 9 pm and 6 am, except on certain conditions. But they can enter during those times without a warrant. How has this come about?

The pre-condition that an indictable offence must be involved is reduced by the amendment to "an indictable offence or relevant summary offence". A "relevant summary offence" includes possession of an offensive weapon. There are issues around what is an offensive weapon, and we have previously had this debate in this place. The definition in the Crimes Act is that an offensive weapon is essentially anything that can be used as a weapon.

A police officer will have the right to enter premises, even where an issue in which he has an interest involves a relevant summary offence, as defined. Of course, Mr Speaker, there is plenty of scope for debate once we get to the situation of allowing the police to enter a home on the basis of a suspicion that a summary offence may have been committed.

There are a range of other issues, scenarios or examples that one could turn to in relation to this new definition of "summary offence". For instance, negligent driving, being a little bit careless turning into your driveway or perhaps refusing to signal are summary offences. They fall within the definition of relevant offence, to the extent that they can constitute the offence of negligent driving, and negligent driving is a relevant offence according to this legislation. The Legal Aid Office used this very example in putting their views on this amendment.

Let me turn to the advice on this bill that the Legal Aid Office would have given the Attorney had they been consulted. Of course, the Legal Aid Office does have a different perspective on these issues than do the AFP or the DPP. One wonders why other sources, even statutory offices or other organs of the Attorney's department, were not involved in this law-making exercise. This is what the Legal Aid Office think about this new power.

> This proposal allows police, using reasonable force, to enter a person's home because they are suspected of having driven with a bald tyre. (Indeed the home may belong to someone else, e.g. a parent). (We are aware of a number of convictions for negligent driving where a bald tyre was the ground for conviction).
>
> We think that is far too wide an ambit for the section. We wonder why it is necessary even for minor theft to be included. While it may well be argued that the present restriction is "unduly restrictive", the proposal seems one likely to empower a police officer to enter premises in the most unforeseen circumstances.

The view of the Legal Aid Office is that, potentially, under this amendment a police officer can use reasonable force—I guess that means bashing in the door—to enter a home on the basis that somebody may have driven their car with a bald tyre. It may be that the police can use reasonable force, namely bashing in the door, even when it is not that person's home—when it is, for instance, the home of their parents.

Is that reasonable? Is that appropriate? Is it appropriate that we reduce the standard, once again, in relation to what has long been regarded as a person's inherent right, namely, the inviolability of their home; that we should increase police powers to the extent that we are prepared to sanction a law which allows a police officer to bash in someone's front door in the circumstance that they may have committed a summary offence?

Everybody laughs and scoffs, and there is a constant refrain from the other side: "Well, if they have got nothing to be guilty about or if they have done nothing they don't need to worry." Of course, we know it does not work like that. If you give a power, the power is there to be used. This is the example that the Legal Aid Office used to

illustrate why this power is unacceptable, that this power should not be given to the police.

Once again, the Attorney has done himself a tremendous disservice in bringing forward this legislation without any justification for why he needs to give the AFP in Canberra a power to break into homes in circumstances where the police suspect—not believe—they may find evidence of a summary offence.

MR STEFANIAK (Minister for Education and Attorney-General) (1.15 am): Mr Speaker, I note that we are dealing with clauses 24 to 27 together. Clauses 24 and 25 simply seek to substitute the word "believes" with "suspects" in relation to arrest of a prisoner unlawfully at large and arrest without warrant for offences committed outside the territory. I think obviously the arguments for that are exactly the same as the ones we had earlier. What Jon is talking about—

Mr Stanhope: I have given up on that, Bill. I thought we had passed that point.

MR STEFANIAK: It is just the way the sheet is written, Jon. Obviously, what you are talking about relates to clause 26 (Power to enter premises to arrest offender) and clause 27 (Section 349ZE (4)). I make that point because we will need to vote on clauses 24 and 25 together and then clauses 26 and 27.

Mr Stanhope made a couple of points. I might say that clause 24 is consistent with section 352AA of the New South Wales Crimes Act. Clause 25 is consistent with 352A of the New South Wales Crimes Act and it merely mirrors what we have done already.

Mr Stanhope also raised the question of power of entry. Currently section 349ZE is limited to indictable offences only. Specified summary offences, which include minor theft, menacing, dangerous or negligent driving and offensive weapons, were chosen by the working party on the basis that they were sufficiently serious to warrant powers of entry. Some concerns certainly have been expressed about the inclusion of particular offences—for example, negligent driving. Clearly, however, police will not forcibly enter premises under this provision unless such action is justified, and I will have a bit more to say about that in a minute.

In most cases this would be inappropriate in relation to a specified summary offence. However, in some cases it will be necessary, and that is a matter that we would say is properly left to the discretion of the police. I reiterate my earlier comments about the various complaint mechanisms that may be used by members of the public if police are perceived to have overstepped the mark.

Mr Stanhope made a number of comments about some really serious problems in the New South Wales police force. There have been serious problems in a number of police forces. We have been very lucky here. We are a small territory and we have had some very strong complaint mechanisms and some strong checks and balances in respect of the AFP and, before it, the ACT police. I think that differentiation is terribly important.

We are dealing with a very well regulated, highly scrutinised police force which has been rigorous in terms of punishing offenders within its midst. I can think of a number of examples of where officers have been thrown out of the force, dismissed, for relatively minor infractions, and rightly so. The force has very high standards, and the community expects that. Our police force is used to being subject to those very high standards and this is important if police are to exercise discretion properly.

Police in any police force could never do their job if they did not have the ability to exercise discretion. There may be some concerns. Quite clearly, the exercise of that power would be totally inappropriate in respect of a car with a bald tyre and I think anyone who tried to use this power in those circumstances would be hauled over the coals.

Mr Stanhope: Don't give them the power.

MR STEFANIAK: That, I think, might be a bit of a cop-out, Mr Stanhope. But there are instances where the exercise of this power is necessary. It is certainly necessary in relation to some things like minor theft, some of the more dangerous driving offences and offensive weapon offences. Those are quite serious offences and, indeed, that is why I think a power like this is necessary.

I make those points. I think we do need to differentiate between the checks and balances that our police force has had and continues to have, and some of the problems that have been experienced interstate.

MR STANHOPE (Leader of the Opposition) (1.19 am): I did the Law Society a disservice by not informing members of its views on this provision. This is the other group which were not consulted . The Law Society stated:

> We reject the bald assertion that there is a need to extend the existing powers of police to enters a person's home.

The Law Society simply does not believe this provision is necessary. They say:

> We accept the reasoning behind extending that power to entry to situations where a weapon is involved, but the broad brush that is cast in the definition of "relevant summary offence" is not appropriate. We do not agree that a power of entry should be allowed in the case of a traffic offence—particularly negligent driving. A negligent driving charge can be sustained on the basis of some (even minor) irregularity in the motor vehicle involved. It is difficult to see that justification for allowing police entry to a person's home because they drove a vehicle with a cracked windscreen or bald tyres for example.

Attorney, if you say that the use of this power would be inappropriate and would not be used in these circumstances, then do not give the power. The Law Society is telling you that you are empowering police in the ACT to kick in someone's front door. You say they will not use it, that it would be inappropriate and we have got all these strict conditions. But you are giving the police the power to kick in somebody's front door because they drove a car with a cracked windscreen.

MS TUCKER (1.20 am): I have to support the position taken by Mr Stanhope. Very sensible arguments have been put again on this legislation. Basically, what has been proposed is quite a worrying infringement of our civil liberties. I cannot believe that, once again, we are even debating this. There seems to be a shift in community concern that has in no way been called for. It is a shift which is causing concern in the community. It is a shift which frightens people in the community. People do not want police bursting into their homes on the grounds that they have committed a very minor offence. That is a frightening situation. I hope that this provision will not be supported tonight and I will be greatly relieved if that is the case.

The fact that we are debating this matter is frightening. I think people in the community need to realise how close the vote is going to be tonight on whether this initiative will be passed. It is not what people in Australia expect. This provision is not warranted or justified; it has not been justified by the government in any way. Apparently the police for some reason think this idea might be useful in making their job easier. Maybe it will make their job easier, but the cost is much too great to society as a whole and this measure must not be supported.

MR OSBORNE (1.22 am): Mr Speaker, I, too, have to question proposed subsection (4) (c) and even proposed subsection (4) (d). I can see the argument for (4) (a) and (4) (b). I think some of the points raised by Mr Stanhope are valid in relation to negligent driving, reckless driving, dangerous driving and menacing driving. Police would be able to obtain a warrant if drivers were involved in a serious car accident.

I think that paragraphs (c) and (d) should perhaps not be supported. I do see some merit in supporting paragraphs (a) and (b). Perhaps it would be easier if the vote was broken up.

MR STEFANIAK (Minister for Education and Attorney-General) (1.23 am): Mr Speaker, I note the points that have been raised in respect of clause 27. I would be quite comfortable with deleting 4 (c) and 4 (d). This would satisfy Mr Osborne's concerns and address the examples raised by Mr Stanhope. Although I do not resile from what I said, I think members would be a lot more comfortable with that outcome. I will move an amendment to delete 4 (c) and 4 (d). Mr Speaker, it might be easier if we voted seriatim on the clauses.

MR SPEAKER: Is it the wish of the Assembly that the question be put seriatim? There being no objection, that course will be followed.

Clause 24 agreed to.

Clause 25 agreed to.

Question put:

> That clause 26 be agreed to.

The Assembly voted—

Ayes, 9		Noes, 8	
Mrs Burke	Mr Osborne	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Rugendyke	Mr Corbell	Ms Tucker
Mr Hird	Mr Smyth	Mr Hargreaves	Mr Wood
Mr Humphries	Mr Stefaniak	Mr Moore	
Mr Kaine		Mr Quinlan	

Question so resolved in the affirmative.

Clause 26 agreed to.

Clause 27.

MR STEFANIAK (Minister for Education and Attorney-General) (1.29 am): I seek leave to move the amendment circulated in my name to delete 4 (c) and 4 (d).

Leave granted.

MR STEFANIAK: I move the amendment *[see schedule 5, part 4, at page 2880]*.

Amendment agreed to.

Clause 27, as amended, agreed to.

Clauses 28 to 37, by leave, taken together and agreed to.

Proposed new clause 37A.

MR STEFANIAK (Minister for Education and Attorney-General) (1.31 am): I move the amendment circulated in my name to insert new clause 37A *[see schedule 5, part 1, at page 2875]*.

The amendment, which increases the maximum penalty for the offence of indecent exposure, has been moved because of the comments by the Chief Magistrate, Ron Cahill, that the existing maximum penalty does not reflect the criminality involved in some of the cases which come before the courts, and should include the option of imprisonment in serious cases.

Members should be aware that the range of behaviour which is caught by the offence of indecent exposure goes well beyond mere flashing or streaking across a sporting field. The case which prompted the Chief Magistrate's comments involved a man charged with masturbating in a public park in front of unaccompanied women and following those women for some distance, which was very traumatic for the victims concerned.

The court did not have the option of imposing a custodial sentence in this case. Mr Cahill wanted to impose a suspended sentence, I think, to reflect the gravity of the offence but was constrained by the fact that merely a fine could be imposed. I would

urge members to support the amendment to ensure that the courts are able to impose a custodial sentence for the most serious types of indecent exposure cases.

I suppose, for the sake of brevity, I should speak briefly to Ms Tucker's proposal.

Ms Tucker: No, I am not going to put it.

MR STEFANIAK: Thank you, Ms Tucker. Then that is all I need say.

MR STANHOPE (Leader of the Opposition) (1.32 am): I want to make a point in relation to this. The Attorney has doubled the penalty for indecent exposure. It is difficult to stand up here and express perhaps any view, having regard to the attitude we have and views which we all instinctively feel in relation to people who expose themselves. They are not people that one finds very easy to defend. They cannot be defended and, as with most criminals, I have no intention of defending them.

But, once again, I do wonder about the basis on which the Attorney made the decision that he need to double the penalty for indecent exposure. I would ask the question: on what basis do we suddenly decide that we are going to double a particular penalty?

Indecent exposure is a complex and odious offence. I note from court reports that people who expose themselves are quite often young adolescent males. Some of them have, I think, quite significant mental problems; some of them have problems that lead specifically to these sorts of behaviours.

Who was consulted about this change? What consultation did the Attorney have with authorities that deal with disturbed boys, adolescents, that engage in these sorts of behaviours? Is this the best way; is this the only way; is this an appropriate way? What advice was taken from people who deal with these sorts of very difficult issues?

I raise this point because recently I had a briefing from Marymead about this very significant problem—and to some extent, it is a hidden problem—of the very aggressive sexual behaviour of very young boys these days. There is a significant problem in our community of very young boys, surprisingly young boys, engaging in aggressive sexual behaviour. We are talking about primary school kids. I am nervous about the Attorney coming in here and saying "Look, this is a really odious offence, this is something we all abhor, let's double the penalty."

MR STEFANIAK (Minister for Education and Attorney-General) (1.35 am): This amendment has been moved as a result of the comments made by the Chief Magistrate, who is certainly a very experienced judicial officer. Of course, there is some strength in what Mr Stanhope says. But the courts have discretion when imposing penalties. In fact, a maximum penalty is very rarely imposed by our courts. There is whole range of types of offences. Obviously, the maximum penalty is reserved for the very worst type of offence, and I think Mr Stanhope can certainly take a lot of solace from that.

MS TUCKER (1.36 am): I agree with what Mr Stanhope has said. I think it is a complex issue. In the last Assembly, the Education, Community Services and Recreation Committee, of which I am the chair, looked at sexual offending by young people, and that is a problem. We recommended in the last Assembly that programs

and support be improved for young people who are sexual offenders. Quite often young people—and this often applies to adults as well—become sexual offenders because of abuse that they have experience themselves.

I did have an amendment, which I have reconsidered, to apply the increased penalty only to people who offend often. I think the response to this problem has to be therapeutic. I do not think the dollar value of the penalty will particularly make a lot of difference. A lot of these people may not have money anyway, and this provision will not achieve anything in particular.

The courts obviously should have discretion. I would want to see courts being able to sentence these sorts of people in a way that provides them with help and therapy. Therefore, in my view, the pressure is on government, which is responding by developing programs for sexual offenders. Those programs need to be evaluated to determine whether they are adequate. They need to be properly resourced and they definitely need to be monitored so that we can try to help these sorts of people. This could be a very expensive and resource intensive exercise.

The point is that quite often these sorts of people have very deep problems. There are deep issues, and it is not going to be a quick fix at all. I do not think penalties are the answer. I think increasing penalties is a very simplistic approach to the problem. I am more likely to just oppose the clause to increase penalties. What we need to see and what I would like to hear from Mr Stefaniak and from Mr Moore as the minister from community services is a commitment to recognise the therapeutic needs of these people.

Proposed new clause 37A agreed to.

Clause 38 agreed to.

Clause 39.

MR STANHOPE (Leader of the Opposition) (1.39 am): Mr Speaker, I will not proceed with my amendment 13.

MS TUCKER (1.39 am): I move amendment No 6 circulated in my name *[see schedule 6 at page 2881]*.

This amendment simply requires police firstly to ask people to turn down a sound system; secondly to warn the people making too much noise that the police can take away their sound system; and thirdly, if all else fails, they can take away the sound system.

It seems clear to me that one request and one warning will usually do the trick in most instances. It is about being reasonable at both ends. A polite request and then a proper warning before leaping in a grabbing a stereo is a reasonable approach by police and is likely to attract a reasonable response from most rowdy party goers.

MR STEFANIAK (Minister for Education and Attorney-General) (1.40 am): Mr Speaker, we are dealing with the noise abatement section of the legislation. Currently the section as it stands enables police to give a noise abatement direction where offensive noise is being emitted from any premises. Such directions are often complied with initially but then subsequently ignored. Even if a person is charged with an offence for failing to comply with a direction, the noise may remain a source of annoyance to neighbours for hours or even days.

The amendment will allow police to seize an item that is suspected of being used in connection with the offence of failing to comply with a direction, for example stereo equipment. In practice, this will mean that the owner of the equipment is given at least one chance to comply with a direction before the equipment is confiscated. Items may be seized for only up to 48 hours, unless a person is charged with an offence under the section and the item is evidence of the offence.

Ms Tucker's amendment would require the police to warn the owner that the equipment may be confiscated prior to actually confiscating it. We would oppose that and simply say that it is certainly usual police practice to give such a warning in any event and this does not need to be expressly stated in the legislation. It probably does not matter if it is.

MR STANHOPE (Leader of the Opposition) (1.41 am): I indicate that the Labor Party will support Ms Tucker's amendment. This is a very difficult issue. I know that some people in the suburbs are driven mad by noise. We are aware that this is an intractable problem. But I have to say that I have some concerns about the government's proposal to make police officers responsible for carrying away CD players.

I think this is one of those issues that will embroil police in an activity that they are not going to feel at all comfortable with. I cannot imagine that this is a power that the police want. There is a whole stack of powers in the bill that the police might have asked for but I cannot believe they asked for this one. I feel for a police force that is asked to go to houses where there are late night parties—

Mr Osborne: Can you imagine saying to 50 drunks, "Give me your stereo."

MR STANHOPE: That is right. That is precisely my concern.

Mr Stefaniak: We are happy to accept your amendment, mate.

MR STANHOPE: Mr Attorney, I do not support this provision but I recognise what an intractable problem noise in the suburbs is. We will support Ms Tucker's amendment.

I think you have done a cruel thing to the police. I am concerned about the scenario that Mr Osborne paints of a couple of young constables out by themselves in the middle of Tuggeranong or Belconnen trying to take out of a house a CD player and speakers being used at a party that has been going for six hours; and then having to load them into the back seat of the police car and drive around with them for the rest of the night.

MS TUCKER (1.43 am): You would have to bring out the whole force. You would have wake up the troops and get them out of bed because "The neighbours will be expecting it. It's in the law. You've just got to do it boys. Get your friends". It is ridiculous.

Amendment agreed to.

Clause 39, as amended, agreed to.

Clause 40 agreed to.

Clause 41.

MR STANHOPE (Leader of the Opposition) (1.44 am): Mr Speaker, I move my amendment No 15 *[see schedule 4 at page 2871]*.

Clause 41 relates to the review process. I note the very interesting comments of the scrutiny of bills committee on this part of the bill. Along with the committee, I am concerned about the process of law reform in the territory that is encapsulated in this proposal. The scrutiny of bills committee was quite critical of the lack of process followed in this piece of law reform.

The bill demonstrates the need for more formal processes to ensure that critical issues that affect the rights of all citizens are fully canvassed and debated before being passed into law. In that context—and I guess this is a digression—we note that the ACT Law Reform Commission is under-resourced and virtually at a standstill because of that. It really does need to be revitalised.

The scrutiny of bills committee made a number of other observations, including pointing out that there are different models in other jurisdictions for post-conviction review—for instance, in New South Wales and the United Kingdom. They are, of course, much larger jurisdictions with a greater history of miscarriage of justice than has been the case here in the ACT. I am not sure it would be appropriate to adopt those models for the ACT. Indeed, the Attorney has not adopted those models in the proposals that he has included.

While noting the concerns of the scrutiny of bills committee, the Labor Party will support this part of the legislation, but with some amendments, to clarify an existing power to hold inquiries into what are known as or regarded as unsafe convictions. The new part is certainly clearer than the old provision.

If I may use the example of the Eastman case, having observed Mr Eastman's efforts to obtain an inquiry, I am not sure in any event if it was easier to get an inquiry under the old provisions. Mr Eastman's inquiry has been granted under the old provisions, and presumably he will have to take his chances on the uncertain extent of those provisions.

The provisions in the bill have some interesting features. For example, rather than the Supreme Court appointing a magistrate to conduct an inquiry, the executive is required to appoint a board of inquiry under the Inquiries Act. This will take some pressure off the magistrates and allow the appointment of persons totally unconnected with the original case to conduct the inquiry. An additional interesting feature is that under the old provision the executive had to make the final decision on what to do about the outcome of the inquiry. That responsibility has been shifted to the full court. I think there are arguments for and against that, but it certainly depoliticises any final decision that may be made. As I said, the Labor Party will support the amendment.

I must say I have found this matter very difficult and I have some concerns. I probably need to be blunt and say that I do not believe that the Eastman case is sub judice. I think we can perhaps talk about it because it is not really a judicial inquiry. I have not been able to establish from my inquiries or my reading of the existing provisions as against what you are proposing whether there is any impact on the process that Mr Eastman is engaged in.

I have a concern about your amendments, and that concern to some extent is—I only know this from Rod Campbell's article in the *Canberra Times* today—that Eastman is in fact the first person in 87 years in the ACT to seek the benefit of the existing provisions, and that is happening at this very moment. I am concerned that we have the first ever application by an individual under the existing provisions, and whilst that application is current you are amending the law. Maybe that is irrelevant to Mr Eastman; maybe it is not.

My concern is: I do not know. I am very nervous about passing these amendments when I simply do not know whether they impact on the one and only person that has ever sought to use the existing provisions in the act. The timing causes me some serious difficulties. Attorney, I do not know if it is coincidental—perhaps it is—but I am seriously concerned that, in the midst of Mr Eastman's application for whatever review it is that he is seeking, you are changing the law.

I am not quite sure if that is fair or unfair to Mr Eastman. Maybe it is fair to him—I just do not know. But if it is unfair to him, then I do not think it is safe for us to proceed. I think you need to give us an assurance that this in no way affects negatively Eastman's case, whatever it is. I am really concerned that you are at this time changing the law in respect of the Crimes Act.

MR STEFANIAK (Minister for Education and Attorney-General) (1.49 am): Mr Stanhope, those are very valid concerns. Indeed, in order to be absolutely certain we were thinking of somehow taking this provision out and just waiting until that matter is finalised. I still think there might be things we need to do in relation to the 475 matter.

I am advised by my department that the repeal of 475 will have absolutely no effect upon the Eastman inquiry which, as you rightly say, is the first of its kind that we have any history of and is currently under way. It is difficult to know whether it is sub judice but I think obviously it is relevant to this issue. Quite clearly, I do not think any of us would want what is coming in now to have any adverse effect on that.

Mr Stanhope: We can't even afford to create a perception.

MR STEFANIAK: You are quite right about perception. My department tells me that repeal of 475 would have absolutely no effect on the Eastman inquiry. The repeal of 475 would not affect the current inquiry in any way. The inquiry may go ahead as if the repeal had not taken place. I make that point because this was the very question I raised. There may well be some other issues in terms of 475 and what can happen there, and I think it may well be important for the Assembly to look at that. But what is proposed here would have no effect on the current inquiry.

There has been some speculation in the media, too, that these amendments have somehow been developed to prevent Mr Eastman from accessing an inquiry into his conviction. That is certainly not true. The department, I am advised, has been considering amendments to section 475 since 1994, which was before Mr Eastman was actually tried and convicted.

It is certainly true, of course, that the issue of the Eastman matter has focused attention on the deficiencies in the existing section 475 and the need to proceed with the amendments, and those deficiencies were acknowledged by the scrutiny of bills committee in its 10th report. There are some other matters in relation to the 475 inquiry which I think we need to look at, too.

Mr Stanhope, perhaps I might address your two amendments. Your amendment No 15 to clause 41 seeks to omit proposed new paragraph 557B (1) (c). The amendment would omit the criteria for holding an inquiry which provides that doubt or question could not have been properly addressed in a relevant proceeding.

This amendment may seem innocuous but it has the potential to undermine our criminal trial and appeals system by allowing defendants or their representatives to actually stay silent, or forget to raise a particular matter during the trial or appeal, and then seek another bite at the cherry by raising the matter at a later date, with a result that the whole trial process would need to be undertaken for a second time. The amendment may also lead some legal practitioners to take less care in preparing their cases by giving them an out if they forget to raise a key issue at trial or on appeal.

The government is firmly of the view that paragraph (c) is necessary to ensure that inquiries are ordered only where the defendant could not raise the matter at trial or on appeal—for example, because a defendant was mentally unfit or otherwise unable to instruct the defence team or because relevant evidence was not then available. So we will be opposing that amendment.

Mr Stanhope, the government does not oppose your amendment No 16 relating to proposed new section 557J (2) (ba), which will allow the court to quash a conviction following an inquiry without ordering a retrial. I am advised that, while the amendment is probably not necessary from a practical standpoint because the DPP would be able to discontinue any proceedings against a defendant who gained a retrial following an inquiry, if the inquiry indicated that the defendant was innocent it may speed up the process of clearing such persons formally. So we will be supporting your second amendment.

Amendment negatived.

MR STANHOPE (Leader of the Opposition) (1.54 am): Mr Speaker, I move amendment No 16 standing in my name *[see schedule 4 at page 2871]*.

I note that the Attorney has indicated that the government will support this amendment.

Amendment agreed to.

Clause 41, as amended, agreed to.

Clause 42 agreed to.

Proposed new part 4A.

MR STEFANIAK (Minister for Education and Attorney-General) (1.55 am): Mr Speaker, I move amendment No 2 circulated in my name which seeks to insert new part 4A *[see schedule 5, part 1, at page 2875]*.

As the supplementary explanatory memorandum indicates, this amendment is proposed for technical reasons to ensure that the ACT can participate in the national DNA database, as was always intended by this Assembly.

The need for the amendment arises because some participating jurisdictions did not adopt the model Forensic Procedures Bill to the same extent that the ACT adopted it, with the result that the definition of "corresponding law" may not now achieve the desired result. The amendments will ensure that ACT law enforcement agencies can gain access through the Crimtrack database to DNA profiles derived under other jurisdictions' laws. I must stress that they will not change in any way the rules governing access to or use of any DNA profiles derived under the ACT's laws, whether by ACT law enforcement agencies or such agencies in other jurisdictions.

Proposed new part 4A agreed to.

Clauses 43 to 53, by leave, taken together and agreed to.

Clause 54.

MR STANHOPE (Leader of the Opposition) (1.56 am): This is another "suspects" versus "believes" section. I indicate that the Labor Party opposes this proposal.

Clause 54 agreed to.

Clauses 55 to 62, by leave, taken together and agreed to.

Clauses 63 and 64, by leave, taken together.

MR STEFANIAK (Minister for Education and Attorney-General) (1.57 am): Mr Speaker, I seek leave to move amendments Nos 3, 4 and 5 together.

Leave granted.

MR STEFANIAK: I move amendments 3, 4 and 5 circulated in my name *[see schedule 5, part 1, at page 2875]*.

These amendments to clauses 63 and 64 correct references to the Road Transport Regulations. New regulations were made after the bill was introduced, necessitating these technical amendments.

Amendments agreed to.

Clauses 63 and 64, as amended, agreed to.

Clauses 65 to 67, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (1.58 am): The Labor Party will be opposing these clauses. Part 10 of the bill relates to the Supreme Court Act 1933. This part allows the Crown to appeal against a jury decision to acquit an accused person if the trial judge made an error of law during the trial, or the judge misdirected the jury to acquit the accused. The scrutiny of bills committee canvassed this issue thoroughly, pointing out that at the core of the argument against such appeals is the principle against double jeopardy, that is, trying a person a second time for an offence of which they have been acquitted.

There is a distinction between a second prosecution and an appeal against an acquittal but, given that the accused is the weaker party in criminal prosecutions, the distinction is fairly minimal. The state has greater resources to commit to pursuing accused persons than the accused persons can spend on defending themselves. To allow this amendment would represent another undermining of personal freedom. It is an undermining of the finality of an acquittal, particularly when that acquittal is granted by a jury. The accused person's personal freedom would be subject to delay and uncertainty and the extent of the resources of the accused person could be ruined even if the Crown's appeal were dismissed.

The Attorney says that such appeals are permitted in the Australian jurisdictions of Tasmania and Western Australia. He also relies heavily on the fact that they exist in Canada and Bermuda. They probably exist in other places in the world. None of that means that we need to blindly follow their lead. If there is a need for such a provision in the ACT—we come back again to whether there is a need for such a provision—no doubt we should pick a well-tried model to copy. But there is no justification offered for the provision in the ACT; there is no justification offered. I am not aware of any public outcry or adverse media reporting of jury decisions to acquit an accused person.

We need to focus on that. This is about jury decisions to acquit accused persons. Some people have suggested to me in discussion about this issue that the dismissal of the charges brought by the NCA against John Elliott in Victoria is a reason for allowing appeals against acquittals. Mr Elliott's trial had some unusual features, but it was not

conducted in the ACT by an ACT judge. Others have whispered to me about the dismissal of the charges against those accused of murdering the Saudi diplomat in the ACT. That is suggested subliminally as a reason for this amendment. I do not know a single person in the private legal profession familiar with that case who would suggest for one minute that the trial judge made an error of law or misdirected the jury.

We need to be clear about that. I know of no single person in the ACT who believes that the trial in relation to the Saudi diplomat was affected by an error of law or a misdirection. I am not aware of anyone who looked at the matter and thought for a single minute that that was the case. They have some other explanations, but I know of nobody who would suggest that it has anything to do with the judge or the jury, or any direction of the judge or mistake of law.

No-one has said that our trial judges are so incompetent that they can make errors of law during a trial that affect the outcome, nor has there been any suggestion that a judge has misdirected a jury to acquit an accused person. You have to ask, on the basis of all that, why we are doing what we are doing. Could it be that this proposal is on the agenda of meetings of directors of public prosecutions, that other jurisdictions are considering it and we must keep up with or even be ahead of the neighbours? Is that why we are doing it?

Once again I go back to the issue that I have raised a number of times tonight that, unfortunately, only the AFP, the AFPA and the DPP were consulted. Many of the other proposals we have considered tonight were proposals that, one can imagine, were suggested by the AFP. Here we have a proposal that suggests it was sponsored by the DPP. Unfortunately, nobody else was consulted; just the DPP. The police got all their little amendments in other sections of this proposal; here is one for the DPP.

I must say that there are some arguments in favour of adopting a provision if an unfair dismissal may be reversed, giving a greater sense of justice to the victims and their families, if a serious error during a trial may be corrected and if it ensures that the judge will maintain a balance between the parties. But the arguments against this proposal are far greater than any arguments that can be advanced in favour of it. With the resources available to it, the prosecution should not make any significant mistakes during a trial.

Errors of law by trial judges are easy to find, but may not have affected the outcomes of the trial. I am advised by some of my acquaintances and contacts at the bar, in particular, that there is probably not a single trial in which you could not find some error of law by the judge. It happens in almost every case, but almost in every instance the error is trifling and does not affect the outcome. Another argument against this proposal is that the accused person suffers a huge cost penalty by having to respond to the appeal and perhaps go through a second trial.

It is only fair to refer to the comments that the Bar Association, one of the organisations that should have been consulted about this legislation, made in relation to this proposal. It said:

> In particular the Bar Association wishes to emphasise its concern about the proposed changes to the Supreme Court Act by the introduction of a new s.37P allowing for prosecution appeals against an acquittal. It has long been a fundamental premise of our law that once an accused person has been acquitted following a jury trial that that is the end of the matter and the accused person may not and should not be put on trial again.

We need to focus on those words used by the Bar Association: it is a fundamental premise of our system of law. That is what we are talking about here. We are talking about unseating a fundamental premise of our law. That is what we are doing; we are about to unseat a fundamental premise of the law. Those are the words of the Bar Association. I quote again:

> The Bar Association opposes the wholesale abrogation of this fundamental principle without a truly demonstrated need for change.
>
> In the Attorney-General's presentation speech he says: "The Bill is not about tipping the scales against the accused, it is about achieving a balance which our community can fairly say is just."

The Bar Association went on to say:

> There is no instance referred to which has been the subject of informed debate where it has been said—

this is the crux of what those on this side, in particular, have been saying tonight—

> that an accused person in this Territory has been acquitted because a trial judge has made an error of law. There has been no attempt to demonstrate that the change is needed. The fact that there is a similar provision, although in what terms is not made clear, in Tasmania or Western Australia, or for that matter Bermuda does not demonstrate a need for such provision in the ACT.
>
> Furthermore it is accurate to say that the proposed alteration to fundamental principle is far reaching in its terms. Contrary to the Attorney-General's speech the Bill does not confine the review of an acquittal to one which "arises from" an error by the trial judge …

The Bar Association concluded, and we will not disagree with what it says as it is so wise and so simplistic:

> If after appropriate informed consideration of the evidence in the ACT it can be demonstrated that guilty persons are being acquitted at trial by reason of errors of law by judges of the Territory, then it might be that some form of review provision is appropriate.

That stage has not been reached. I conclude: why are we doing this? There is absolutely no justification. The Bar Association says that it does not know of a single case in which a person has been acquitted as a result of an error by a trial judge, yet here we are debating the deletion, the trashing, the removal, of a fundamental premise of the law, in the words of the Bar Association. I am just astounded at the equanimity with which we do so in this place.

MR STEFANIAK (Minister for Education and Attorney-General) (2.08 am): Clauses 65 to 67 insert new provisions dealing with orders to review acquittals and, of course, they would commence only after the commencement of legislation to establish an ACT Court of Appeal. Suggestions have been made that these amendments breach the principle against double jeopardy.

The scrutiny of bills committee discussed this issue at some length but, curiously, failed to mention case law from the Supreme Court of Canada, which expressly ruled that Canadian provisions permitting prosecution appeals against acquittals did not breach the double jeopardy clause and the Canadian charter of rights. The scrutiny of bills committee also failed to mention other Australian jurisdictions, Western Australia and Tasmania—Mr Stanhope has now mentioned them—or the provision and legislation in Queensland and New South Wales which allow for prosecution appeals against judge-directed verdicts.

This matter did not come out of the blue. It is not just something run from the office of the DPP, although it may have been raised there some years ago. It is something that has been on the agenda of the Standing Committee of Attorneys-General for some time. In fact, I saw some reference to it at the first meeting I went to in Adelaide after I became Attorney-General. As a result of its being on that agenda, Tasmania and Western Australia have already enacted legislation and Queensland and New South Wales, as I said, have legislation to allow for prosecution appeals against judge-directed verdicts.

Errors of law which produce an acquittal represent a failure of the judicial system, just as much as errors of law which result in a wrongful conviction, and the victims of crime should be able to be confident that the offenders who have harmed them will not escape liability solely because the court made a mistake. Again, this is not rocket science. We are not proposing anything absolutely startling. It will have a very limited application. Mr Stanhope is right; it is pretty rare. I can think of several instances in the 1980s when it would have been handy. The DPP has in recent times taken out a number of orders of review to get direction. It goes to the Federal Court. The Federal Court will rule on a matter of law. It will not affect anything. There cannot be any retrial; the person concerned cannot go back again.

I am aware of a number of instances in the last 10 years of the Federal Court saying unanimously that the trial judge erred. In some instances it was serious enough—perhaps a wrong direction to a jury—to take the trial away from the jury. Back in about 1995 I had one of those instances. Incidentally, I would have recommended that we not appeal even if the provision were in existence because the circumstances of the offence were such that it would have been being unreasonable to the defendant and everyone else and a waste of money if we had. Clearly, if the case were serious and the facts were different, there would have been cause for some concern there and cause for concern in the community.

There have been instances in that regard. If Mr Stanhope talked to the office of the DPP and they went back through their books properly, they could point to a number of cases where they have got directions from the Federal Court, which are, of course, binding on the Supreme Court, but only, obviously, if a similar type of situation comes up again. They cannot redress the wrong of incorrect and inappropriate action by the

trial judge, whereas a defendant who is adversely affected by the error of a trial judge can have the right of appeal. The prosecution does have a right of appeal from petty sessions, which are called orders of review, and can appeal to the Supreme Court. So some of the distinctions being made here by Mr Stanhope really are not all that logical.

I want to stress that the power of the Court of Appeal to order a retrial following an acquittal is discretionary. That means that, even if the court determines that there has been an error of law, it remains free to let the acquittal stand if it so chooses. For example, the Court of Appeal might find that there has been an error of law, but decline to order a retrial because it regards the error as being trivial or unlikely to have affected the verdict. On the other hand, there may be cases where the error was serious, but the court considers a retrial would be pointless because key witnesses are no longer available, or because there was conduct by the prosecution at the trial which compounded the error.

Mr Speaker, I too have read the concerns of the Bar Association and the Law Society and responded to them. I think I have provided members with a copy of my response. It is probably useful to read out the response to John Purnell, the president of the Bar Association. I said:

> Dear John,
>
> Thank you for you letter of today's date concerning the Crimes Legislation Amendment Bill 2001 and enclosing a copy of the submission on the Bill by the ACT Law Society's Criminal Law Committee.
>
> The ACT Law Society has previously provided me with a copy and I attach, for your information, a copy of my response …
>
> In relation to your comments opposing the amendments to permit orders to review acquittals, I draw the Association's attention to the fact that other common law jurisdictions, such as Canada, Bermuda, Tasmania and Western Australian, have already legislated to allow the Courts to review certain acquittals where there has been an error of law by the trial judge.
>
> I am aware of arguments that somehow the proposal represents an infringement of the principle against double jeopardy, and may be contrary to Article 14 (7) of the International Covenant on Civil and Political Rights. As you will be aware, that article provides:
>
> > No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.
>
> I believe that arguments which suggest that the proposals run contrary to this principle are unfounded and based on a fundamental misunderstanding of the concept of double jeopardy.
>
> Further, they do not appear to take account of the series of rulings by the Supreme Court of Canada which deal with this very issue. That Court has confirmed that appeals by the Crown against an acquittal are not in breach of the Canadian guarantee, found in section 11(h) of the Canadian Charter of Rights, that:

> Any person charged with an offence has the right, if finally acquitted of the offence, not to be tried for it again, and if finally found guilty and punished for the offence, not to be tried or punished for it again.
>
> As can be seen, the language of s.11(h) of the Canadian Charter is very close to that of Article 14(7) and is clearly intended to reflect the same common law principle against double jeopardy.
>
> The Canadian Supreme Court ruled in R v Morgantaler [1988] 1 SCR 30 (and upheld this ruling in R v Smith 14 CRR (2d)(331) in relation to s.11(h) of the Charter of Rights that the words "if finally acquitted" and "if finally found guilty" must be construed to mean after the appellate procedures have been completed, otherwise there is no point or meaning in the word "finally".
>
> If one accepts, as many commentators appear to do, including the Assembly's Scrutiny of Bills Committee that Article 14(7) reflects the common law position applying in Australia, the decision in Morgantaler strongly suggests that the proposed section 37R would not offend against Article 14(7), on the basis that the defendant would not have been "finally convicted or acquitted in accordance with the law and penal procedure" of the ACT.

I went on to say that, whilst decisions of the Supreme Court of Canada are not binding in Australia, they have been applied and cited by the High Court of Australia on previous occasions.

Mr Speaker, someone mentioned the case of John Elliott. The trial judge there took it on his own bat to acquit John Elliott. I am glad that I am saying that in this place, because John Elliott does things if people say things outside. The trial judge acquitted John Elliott and the trial judge was absolutely slammed by the Victorian Full Court of Appeal, all three judges. Again that was just by way of a reference appeal, which is all we have at present. That just goes to show what can happen if a judge has a bad day or has some bee in his or her bonnet and goes off on a tangent—and, let us face it, everyone is human. There is no redress for a judge incorrectly taking a matter away from the jury, misdirecting a jury or making some fundamental error of law and someone who should normally be convicted walking. That is just as bad as some person being found guilty who is not guilty.

I do think it is a very important point. It is an important addition to our criminal system. I think it would lead to greater confidence. True, there have not been many occasions on which this provision has been needed. That is great. That is a big tick in the box for our legal system. But there certainly has been a number of occasions where review appeals have been made and this provision would be highly appropriate, because nothing can come of a review appeal. The guilty person cannot be brought back.

It is not double jeopardy if, for example, a judge takes a case away from a jury. The matter really has not been completed. It is not like a person is then tried twice. An error has occurred. Obviously, if the court says that there was a gross error there that should not have occurred, the matter can be retried and retried properly to a conclusion. This provision in no way affects the rights of a jury to find on fact, properly directed, and decide one way or the other. That is sacrosanct. But it does affect a situation where a judge goes off on a tangent and makes an error of law which

leads to an acquittal or erroneously takes a case away from a jury. I think it is an important addition to our criminal law. As I said, it just did not come out of the blue. It is certainly something that has been before the Standing Committee of Attorneys-General and other states have already enacted it.

MS TUCKER (2.18 am): I do not believe that a strong case has been made to allow the DPP to appeal against acquittals. The Attorney-General has explained that the Canadian Supreme Court does not have a problem with that, nor do Tasmania or Western Australia, for what that is worth. He has said that the new power will allow a defendant who is acquitted only because a court made a mistake to be retried. That is not the case. This bill allows anyone acquitted to be retried if a court has made a mistake in law or misdirected a jury. That is not the same thing. As the Law Society and the scrutiny of bills committee eloquently argue, this bill is a slapdash piece of legislation which undermines one of the keystones of our criminal justice system and reflects very poorly on the government which has brought it in.

Clauses 65 to 67 agreed to.

Clause 68.

MS TUCKER (2.21 am): I move amendment No 8 circulated in my name *[see schedule 6 at page 2881]*.

This amendment to clause 68 is one of natural justice. Basically, it is saying that if, after acquittal, an offender is to face a retrial through no deception, error or action of their own but through an error of the court, then the cost of such a retrial ought to be borne by the territory.

MR STANHOPE (Leader of the Opposition) (2.22 am): I support this amendment. I will oppose this clause, but this is one of those situations where, if it is to succeed, then it needs to be improved. Ms Tucker's amendment certainly does that. It is quite reasonable. I cannot see why members could not accept it.

Ms Tucker's proposal is that if the Court of Appeal makes an order under subsection (2), the territory must meet any reasonable legal cost that the defendant incurs in relation to a new trial. If one makes any consideration around the reasons we have rules in relation to double jeopardy, it is very much around the different powers and the different resources that the state and an individual defendant can bring. If we go down this path, we have to ensure that we do not create a circumstance in which a defendant is so burdened by having to face a second trial that they are simply pushed even further into the bankruptcy that they are probably in after the first trial. I have a couple of other amendments in relation to this matter. I will move them subsequently, depending on what happens now. I am just foreshadowing that, because it has got me totally confused.

MR STEFANIAK (Minister for Education and Attorney-General) (2.23 am): Mr Speaker, it is obvious that it will be in a fairly rare situation that this will occur and I must say that I do have some sympathy for Ms Tucker's argument. There is, however, a general and longstanding principle in our courts that for indictable matters, matters that actually go to the superior court, each party bears its own costs. That is

very different from matters dealt with summarily, where costs follow the event, although invariably that means that if the prosecution loses it pays because normally the prosecution would not seek costs when it wins in a summary matter.

In appeals from the Supreme Court, normally each party pays their own costs, so this would be a departure from the usual practice in criminal proceedings. I would be interested to know members' views here. I am concerned that this is very much a departure from the norm. There have been arguments from time to time in terms of costs actually being applied in trials, which is something that has never occurred in any jurisdiction in Australia. I think that would be a dangerous precedent to set. In relation to this matter, I think the government would have to oppose the amendment, but I have some sympathy for Ms Tucker's point of view because of the rare nature of this occurrence. I would be interested in the opinions of other members on the matter.

MS TUCKER (2.25 am): I think that it is really important to look at the question of natural justice here. This is about a situation which is in no way the fault of the person. Sure, it is not the usual situation, but we are talking about it because it is an unusual situation. If it is going to be allowed to occur and it does occur through no fault of the person concerned, why would you not take responsibility for that? It seems fair to do so.

MR STANHOPE (Leader of the Opposition) (2.26 am): Mr Speaker, we have proceeded in relation to this issue in a slightly different way. As I indicated before, I oppose this provision. I do not think we need to go down this track. I do not think that a case for it has been made. I expressed all those views before. Ms Tucker has the same views, but Ms Tucker and I have perceived it in slightly different ways in our response to it.

I oppose it; I hope it will be defeated. Ms Tucker has the same view. Ms Tucker has now been able to move an amendment to it seeking, so far as she is concerned, to make a better provision out of it in the event that it succeeds. I had proposed a couple of amendments. In the event that the Assembly passed this provision, I had proposed to have the section recommitted; but, I have to tell you, at 2.30 in the morning it is just too late to be worrying about recommitting it and having a second debate on the same issue in five minutes. It is too much for me.

I have just circulated amendments that I had proposed to have recommitted just for the edification of members and to inform the debate about Ms Tucker's amendment. I am just foreshadowing that, subject to what happens with this provision, which should be defeated, I have a couple of other amendments of the same order or ilk as Ms Tucker's, namely, that if we are going to abandon the rules in relation to double jeopardy, if that is what the Director of Public Prosecutions is going to do on behalf of the state, to force people to a second trial, then the state has to bear some responsibilities for the costs in relation to both the application and the trial.

That is the difference between my amendment and Ms Tucker's. It is not just a question of the trial being supported. Think of the application. The DPP comes before the court and makes an application for a second trial and the poor person who has just been acquitted goes home, has his party and discovers later that there is an application to try him again. Of course he is going to oppose it. He is going to go back

to his counsel and say, "It is on again; they are going to try me again. I have just been released, but they want to do it to me again."

You have this enormously expensive application process and you expect him to foot the bill for that as well. That is just not on. If you are going to abandon double jeopardy, the state will have to bear the costs. That is only reasonable. But, as I say, it is not reasonable that we abandon the rules in relation to double jeopardy. This clause should be defeated; it should not be supported. This is crazy law-making and we should not countenance it. You are amending the law upon the basis of a whim. You are amending the law in circumstances where absolutely nobody can advance a good reason for doing so. Let us deal with that first. Let us knock this clause out, then we will not have to worry about who is going to bear the costs.

MR STEFANIAK (Minister for Education and Attorney-General) (2.29 am): We are speaking to the amendment, are we not, Mr Speaker?

MR SPEAKER: We are.

MR STEFANIAK: I have talked to a few members and I suspect that members are inclined to support Ms Tucker's amendment. I note that it is setting a precedent to an extent, but it is rare and I think that it is arguable that there are special circumstances. Mr Rugendyke has indicated that he will be supporting the amendment, as has Mr Kaine, which, effectively, gives Ms Tucker the numbers. I can see her point.

We will need to look at whether we are setting a dangerous precedent in relation to costs. In a way, I hope that we are not, because the occurrence is somewhat rare. I do not think that there is a similar provision in Western Australia or Tasmania, but I stand corrected there. It is highly unusual, but appeals of this nature are. It is certainly something that the next Assembly will need to monitor to see what, if any, adverse effect it does have. I note the numbers and indicate that I will not be calling for a division on this one. I can see that the numbers are against me. But I would reiterate that this is certainly a departure from the usual practice in criminal proceedings.

MR RUGENDYKE (2.31 am): I think the case has been made by both Ms Tucker and Mr Stanhope that in this sort of situation where the territory appeals against a decision and the defendant is put through a second trial at the territory's request the territory ought to be responsible for costs. I appreciate Mr Stefaniak's concern and I agree that we ought to be conscious of setting a dangerous precedent. The implication for costs generally could be a problem, but I see this matter as a one-off situation. I see it as a special situation. If it sets a precedent, it should be treated as a one-off situation.

Amendment agreed to.

Question put:

> That clause 68, as amended, be agreed to.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Rugendyke	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Smyth	Mr Corbell	Mr Stanhope
Mr Hird	Mr Stefaniak	Mr Hargreaves	Ms Tucker
Mr Humphries		Mr Moore	Mr Wood
Mr Kaine		Mr Osborne	

Question so resolved in the negative.

Clause 68 negatived.

Title agreed to.

Bill, as amended, agreed to.

Privilege

MR SPEAKER**: Yesterday, the chair of the Standing Committee on Planning and Urban Services, Mr Hird, gave written notice of an apparent serious breach of the standing orders in respect of the release to the public of confidential information discussed at a meeting of the committee on 7 August. Mr Hird has confirmed he has raised the matter as a possible breach of privilege. In his letter, Mr Hird referred to an article in the *Canberra Times* of 8 August 2001, headed "No more consultation on Gungahlin Drive". The article referred to the deliberations of the Standing Committee on Planning and Urban Services on its report on draft variation No 138. Mr Hird has also provided a transcript of a radio program relating to the matter.**

Yesterday, Mr Hird brought a further matter to my attention in respect of the publication of deliberations of the Standing Committee on Planning and Urban Services on the timing of the presentation of its proposed report on the duplication of Fairbairn Avenue. In his letter, Mr Hird referred to an article in yesterday's *Canberra Times*.

Under the provisions of standing order 71, I must determine as soon as practicable whether a matter merits precedence over other business. In doing so, I have considered whether the issue is one of substance and supported by the facts as presented. If, in my opinion, the matter does merit precedence, I must inform the Assembly of the decision and the member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee appointed by the Assembly for that purpose.

Assembly standing order 241 provides, inter alia, that proceedings and reports of committees "shall be strictly confidential and shall not be published or divulged by any member of the committee or by any other person, until the report of the committee is presented to the Assembly". That standing order and standing order 242 give certain provisos and exceptions to the rule.

The publication of draft reports of committees before their presentation to the House of Representatives has been pursued as a matter of contempt and the publication of the draft report of the Select Committee on Estimates 1993-94 to a reporter from the *Canberra Times* was considered to be a contempt of the Assembly by the then Standing Committee on Administration and Procedure in its December 1993 report on the matter. The premature publication or disclosure of committee proceedings has also been pursued as a matter of contempt, but merely to indicate the timeframe a committee is working to does not necessarily, in itself, constitute the committee's deliberations.

As Speaker, I am not required to judge whether there has been a breach of privilege or a contempt of the Assembly. I can only judge whether a matter merits precedence. Having considered the articles and Mr Hird's complaints, I am prepared to allow precedence to a motion to refer the first matter, that concerning the committee's deliberations on its inquiry into draft variation No 138, to a select committee to deal with the matter. Alternatively, the Assembly may care to note the December 1993 recommendation of the Standing Committee on Administration and Procedure and adopt the procedures for dealing with improper disclosure of committee evidence or proceedings utilised by the United Kingdom House of Commons and more recently by the House of Representatives.

To summarise those procedures, once an initial complaint has been raised, the committee in question must consider the matter—in particular, whether the matter has caused or is likely to cause substantial interference with its work, with the committee system or with the functioning of the house. The committee must inform the house of the results of its consideration and, if it finds that substantial interference has occurred, it must explain why it has reached that conclusion. The issue is then considered by the Speaker, who determines whether to allow precedence to a motion on the matter. However, as already indicated, I am prepared to allow precedence to a motion to refer the matter to a select committee in accordance with standing order 71. Should Mr Hird wish to move the required motion, I shall give him the call.

MR HIRD: Mr Speaker, as you rightly said, the matter was brought to my attention as chairman of that committee. With the approval of the other members of this place, I would like to take the matter back to the committee for further discussion and report back to you as Speaker.

MR KAINE: Mr Speaker, may I comment on this matter?

MR SPEAKER: You may.

MR KAINE: Mr Speaker, I suggest that, at the same time as the committee is examining this matter, it also examine how it was that within an hour and a half of the committee tabling its report in connection with this variation this morning the government submitted a comprehensive variation proposal. How did they know that the committee was going to bring down its report with a finding supporting that variation, such that within two hours at the very outside they were able to produce a thick volume on the matter? If the committee is going to look at the matter of privilege, it should look at how the government, through prescience or some other such mysterious methodology, was able to produce that variation so quickly.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): Mr Speaker, on Mr Kaine's point: if he had listened to my speech when I tabled that document he would know that it was very clear that it was only going to go one of two ways and I asked PALM to be ready to cope with whatever came down in the report. They did so and we were able to table it quickly, because the government considers this matter to be urgent and wished to make sure that it was ready to move on with it.

MR MOORE (Minister for Health, Housing and Community Services): Mr Hird has asked whether the committee can consider it. The answer is yes.

Criminal Code 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) (2.43 am): The Attorney-General introduced this bill on 15 June 2001. The scrutiny of bills committee made no adverse comment on the bill. The Attorney said during his presentation speech that this bill is the first step of a two-step process. This stage will establish the codification of the criminal law. The second step will be to review all the existing offences to ensure that they are drafted in accordance with the code. The second step potentially represents a significant commitment of future resources.

Mr Speaker, we are being asked by the Attorney to commit to this bill in an environment where it needs to be said that no other state and territory jurisdiction so far has done so. The ACT would be the first jurisdiction to commit to the uniform criminal code. To that extent we are following the Commonwealth's lead in this matter, as the attorney said. One of his reasons for us being first out of the blocks is that we have close ties to the Commonwealth. There are a large number of Commonwealth matters tried in our courts, and we share the Australian Federal Police. This could be said by all jurisdictions to some extent, I guess, but I note that no other jurisdiction has yet used these arguments.

Having said that, Mr Speaker, the Labor Party will support the bill. Criminal codes exist in various other jurisdictions, for example, Canada, India, and France and its former colonies. They have found that a code, like any other piece of legislation, may become complicated, illogical, and poorly organised, but the Standing Committee of Attorneys-General has been committed to introducing a code for a number of years.

The Commonwealth enacted provisions similar to those proposed for the ACT in 1995. The ACT provisions virtually follow the Commonwealth word for word except that this first stage of the ACT code does not include revisions for the age of criminal responsibility, the defence of intoxication, defences such as intervening conduct or events, sudden or extraordinary emergencies and self-defence, or attempt, conspiracy, and incitement offences. The Attorney says that these are already provided for in other statutes and will be included in later amendments to the code. There is no objection to the introduction of this part of the code, which does not apply to offences created

before its commencement until 2006. The Commonwealth had allowed, I note, Mr Speaker, a similar five-year transitional period.

Criminal offences will still be able to be created in other statutes—for example, the Drugs of Dependence Act—but the general principles relating to the elements of the offence, burden of proof and criminal responsibility will be set out in the code. It may be, as we set off on this bright new adventure, that the ACT eventually will be a model for other jurisdictions. The Labor Party will support the bill, and we look forward to the vigorous law reform process which it will inevitably trigger.

MS TUCKER (2.46 am): There is some disquiet about this bill which will shift, over time, all of the ACT's criminal law away from the present common law and statute basis and into a codified system in keeping with the model code endorsed by the Standing Committee of Attorneys-General. While the case for a uniform code might appear clear, it is certainly not a procedure that this government is locked into in every instance. In fact, we have just finished debating a shift in the onus of proof in regard to valueless cheques. Fortunately it was not successful.

In reply to the Law Society, the Attorney-General was quite happy to argue that it was not appropriate in this instance to adopt the model criminal code provision. So, given that this government will pick and choose which aspects of the code it will adopt, we have to be concerned that immediately prior to an election it now seeks to commit the ACT to an extensive and ongoing reworking of our criminal law. One might have thought that more sensibly you would embark upon such programs after election when you would have the opportunity to ensure that the process was well managed over a number of years.

There are broader philosophical issues underpinning the notion of a criminal code. There is a presumption, for example, that a code will rule out many of the ambiguities in the law and lessen the role of the courts in shaping or interpreting the law. It is in fact an illusion of certainty as the role of the courts in interpretation will remain. The advantage of a criminal code, then, is more geographic than intrinsic. It gathers together some of the core values and principles of our criminal justice system and so makes them more transparent and accessible.

If we could arrive at a uniform code for all Australian jurisdictions, offences could be proved in the same way. Commonwealth/state prosecutions would be greatly simplified, and the evolution of criminal law across the nation would be facilitated. It is not reassuring then to see the government today introduce quite a number of amendments to the crime laws of the ACT which actually undermine the very principles that this code is set to enshrine.

Concerns that the Greens share with the legal fraternity are that the process is detailed and extensive, expensive in time, and requires a long-lasting commitment. Nonetheless, we are not opposed to the introduction of the code. We are just mystified as to why it is being introduced right now.

MR STEFANIAK (Minister for Education and Attorney-General) (2.48 am), in reply: I thank members for their support and their comments. Yes, obviously the government is very committed to this. It is true that we have a fair bit in common with the

Commonwealth, so we are heading off the blocks a bit before other people. Obviously, in terms of any code, it takes a long time even to get to this stage. In terms of further model criminal codes, I think it is an excellent idea to have common law, common codes, right across the country. It is hard to do it, so that will certainly take time. I think this is a good first step. The government is committed to advancing that. I hope that the opposition or the government after October will continue the process.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Protection Orders Bill 2001

[Cognate bill:

Protection Orders (Consequential Amendments) Bill 2001]

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

> That this bill be agreed to in principle.

MR DEPUTY SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No 7, Protection Orders (Consequential Amendments) Bill 2001? There being no objection, that course will be followed. I remind members that in debating order of the day No 6 they may also address their remarks to order of the day No 7.

MS TUCKER (2.50 am): I move:

> That the debate be now adjourned and the resumption of the debate be made an order of the day for the third sitting day following the presentation to the Assembly of a report by the Attorney-General on consultation he has undertaken on the bill with stakeholders in the domestic violence sector including (a) the Domestic Violence Prevention Council; (b) the Domestic Violence Crisis Service; and (c) the Women's Legal Centre regarding (i) possible impacts of the legislation on victims of domestic violence, (ii) the bill's consistency with model domestic violence laws and (iii) any proposals in relation to the legislation.

Mr Stefaniak: I take a point of order, Mr Deputy Speaker. I think that motion is highly out of order. We are simply adjourning the debate.

MR DEPUTY SPEAKER: The member may move the adjournment.

Mr Stefaniak: She can move the adjournment but I think the additional stuff she is putting on there is highly irregular and highly out of order. It is an absolute nonsense. I would simply just seek to adjourn the debate. Obviously the reason we are doing it is

that people want some consultation, but I think it is extraordinary for anyone to have a conditional adjournment. I am quite happy just to adjourn both bills.

Ms Tucker: I would like to speak to that.

MR DEPUTY SPEAKER: Ms Tucker, you may talk to the point of order.

Ms Tucker: I sought advice from the Clerk and I was assured I could do that, so I just did it. What is the problem with that?

MR DEPUTY SPEAKER: I intend to put the motion.

Ms Tucker: Thank you.

MR DEPUTY SPEAKER: The motion will be put in two parts.

Ms Tucker: I am happy to speak to it. Would people like me to speak to it?

MR DEPUTY SPEAKER: No, you cannot speak to that motion.

MS TUCKER: I seek leave to speak to that motion.

Leave granted.

MR DEPUTY SPEAKER: I would not mind a copy of the motion. Thank you.

MS TUCKER: I sought leave to speak to it. Would you like me to speak to it?

MR DEPUTY SPEAKER: Ms Tucker, you have leave. Will you speak to your motion?

Mr Stefaniak: Why don't you just adjourn it? I will try to talk to those people. Let's do it next time.

MS TUCKER: Yes. Last year and in 1999 several Supreme Court—

Mr Stefaniak: You can apply for another adjournment then if you don't like it.

MS TUCKER: Excuse me! Several Supreme Court judgments made serious criticisms of court practice and administration on restraining orders and protection orders. The concerns were such that in these cases the orders were overturned on the basis that they had been improperly made. In response to these criticisms the government has done what they are calling a technical review of the legislation, which has resulted in this bill.

Mr Moore: Oh, fuck consultation!

MS TUCKER: The bill reorganises the law—what did you say?

Mr Moore: I withdraw anything I've said.

MS TUCKER: What did you say? I think Mr Moore might need to withdraw something, seriously withdraw something, if we are going to be proper in this place, which people wanted to be

suddenly.

MR DEPUTY SPEAKER: Order! Can we get on with the debate.

MS TUCKER: Yes, I would like to. Mr Moore needs to drink more water and say less. The bill reorganises the law on all types of protection orders, seeking to make it more clearly understood. In doing so it takes the legislation covering domestic violence protection orders out of the Domestic Violence Act—that is an important point, members—and combines it with all other protection orders.

Despite the fact that the review and the bill involved rewriting the law of domestic violence protection orders, the comprehensive technical review behind the bill did not include consultation with domestic violence services or expertise. It has been done without consulting the Domestic Violence Prevention Council which, I remind members, is a statutory body established by this Assembly which has as one responsibility advising the minister on matters relating to domestic violence. It was not consulted. The council, by the way, does not seem to have been adequately resourced to fulfil such an important function, which is another matter of concern.

The reworking of the laws has apparently been carried out—this is another very important point; Mr Moore, you would be interested in this—without reference to the model domestic violence legislation. These model laws, released in April 1999, are intended to improve the consistency and quality of Australian jurisdiction's domestic violence protection laws. They were developed by a multi-jurisdiction working party and are based on broad consultation carried out, at least in part, with funding from the partnerships against domestic violence program. So the council that we set up, that this Assembly set up, at the moment is looking at how our local law fits with the model legislation. So it would certainly be valuable to have the council's comments on this latest legislation which this government has suddenly thrown up out of the blue. Maybe it would make more sense to draw from the model law. Let's find out before we vote on this.

In short, the government has not been careful enough to ensure it knows what it is doing to victims of domestic violence by changing these laws, and it is not good enough. That is why I am proposing stopping this debate until our consideration of this bill is informed on what it will mean and how it could do its work better for victims of domestic violence. In itself the lack of consultation is worrying. I think Mr Humphries would agree with me here at least. In his letter of 6 February 2001 regarding the government's review of the restraining orders legislation, which I presume was the review behind this bill, he said:

> It is critical that we get the restraining orders process right. I am particularly concerned that the new legislation will not suffer from similar problems to those that exist within the current legislation. The legislation involves complex issues and stakeholders have shown an extremely high level of interest in it.

It is interesting to know now, as we do, that the stakeholders referred to in this letter did not include any specialist domestic violence or women's services. This is like the debate we just finished. Mr Humphries continued:

> It is important that there is a high degree of confidence in the efficacy of the new legislation and this takes time.

I absolutely agree with this, and that is why I hope that we will take the time to get this bill right.

Mr Stefaniak has explained, in a letter circulated perhaps to all members yesterday, that several legal bodies were consulted in the development of this new bill—the Magistrates Court, the DPP, the Legal Aid Office, the Victims of Crime Coordinator and the Community Advocate. My motion to defer this bill for more work is in no way criticism of their input or their knowledge. However, services which work specifically with victims of domestic violence were not consulted on the changes, and nor was the Women's Legal Centre, also a specialist.

It is not only the absence of this specialist input that motivates my motion today; it is the fact that some of these services, now that they have had a preliminary look at the bill, have raised serious concerns about the impact of some of the changes. They have indicated that the bill will remove parts of the legislation away from the approach recommended, and implemented following the extensive CLRC review of civil aspects of legislation concerning domestic violence. This is serious stuff for anyone who cares about domestic violence legislation.

The Domestic Violence Crisis Service said:

> Although we think some of the changes are positive and will enhance the current domestic violence legislation specifically, there are proposed changes of substantial concern.

The preliminary comments by these experts in responses to domestic violence and the impact of these proceedings on victims of domestic violence indicate that the bill makes changes to the process of obtaining interim protection for domestic violence victims, reduces some of the flexibility of interim protection order conditions and length, and, importantly—Mr Moore, you will be interested in this—has apparently changed the test to determine the need in applications to extend domestic violence protection orders.

The government may well put the case that this bill is urgent, as it is designed to prevent invalid orders from being made, but the criticisms were made in 1999 and 2000.

You are usually very good at keeping the place in order, Mr Deputy Speaker, but you do not seem to be at the moment.

The magistrates courts themselves have responded to the Supreme Court's criticisms, which seems much more appropriate and what you would expect from a professional organisation. I understand that the court has increased training for all their deputy registrars, prepared a manual which sets out clearly their responsibilities and duties in

the different types of cases that may come before them for domestic violence and other protection orders, changed their forms to meet the court's recommendations, and checked and reissued where necessary all the existing orders which had been thrown into doubt by the Supreme Court's ruling.

While rewriting the legislation in a clearer fashion will no doubt be helpful in the future to the legal practitioners and to people who need to use the law in their own lives, it cannot be credibly argued that this is urgent. So I would like to know where the sudden urgency comes from.

The review process has taken time, in recognition of the importance of this area of law, and if we now know, as we do, that domestic violence stakeholders have not had input, then surely it is much more important to get it right. Surely we don't want to create more problems than we solve. It is simply not good enough for the government to say that they have considered these points of view without responding in detail. It is not good enough to neglect domestic violence specialists and the model legislation when rewriting protection order laws. We have heard a lot of rhetoric today about women and caring about women's issues. This is a woman's issue. Give it due respect.

MR DEPUTY SPEAKER: Order! Technically, under standing order 65, the question must be put forthwith. I indicate that Ms Tucker's motion will be put in two parts. The first part is—

MR MOORE (Minister for Health, Housing and Community Services): Mr Deputy Speaker, I seek leave to speak.

Leave granted.

MR MOORE: Thank you, Mr Deputy Speaker. I shall be very brief. I do need to say that this is a stunt. Ms Tucker stands up—

Ms Tucker: It is not a stunt.

MR MOORE: This is a stunt. You stand up to berate us about consultation. You did no consultation whatsoever in spite of your—

Ms Tucker: I talked to your minister.

MR MOORE: We had not seen this motion. You asked for leave. We had no idea what it was about. Out of the goodness of our hearts we gave you extra leave.

Ms Tucker: I told the minister.

MR MOORE: It is the last time in this Assembly that you get leave.

Mr Stefaniak: You didn't say you would do this.

Ms Tucker: You had better explain—

Mr Stefaniak: You said you wanted to have a little word.

MR DEPUTY SPEAKER: Order! Can we get on with this motion, thank you.

MR MOORE: It is the last time you get leave. Mr Deputy Speaker, unfortunately it is now no longer a simple matter of just being able to vote Ms Tucker's motion down. We have to go through

a process, and that is what I want to talk about. The process, as I understand it—I need to have it verified—is that you put the original motion for the adjournment. If the adjournment is agreed to we then deal with Ms Tucker's motion, and I am now foreshadowing an amendment.

MR DEPUTY SPEAKER: That is correct, Mr Moore.

MR MOORE: There is a process.

MR DEPUTY SPEAKER: I put the question:

> That the debate be adjourned.

Question resolved in the affirmative.

MR DEPUTY SPEAKER: The question now, and I will read it in full, is:

> That the resumption of the debate be made an order of the day for the third sitting day following the presentation to the Assembly of a report by the Attorney-General on consultation he has undertaken on the bill with stakeholders in the domestic violence sector, including (a) the Domestic Violence Prevention Council; (b) the Domestic Violence Crisis Service; and (c) the Women's Legal Centre, regarding (i) possible impacts of the legislation on victims of domestic violence, (ii) the bill's consistency with model domestic violence laws, and (iii) any proposals in relation to the legislation.

MR MOORE (Minister for Health, Housing and Community Services) (3.03 am): Mr Speaker, I move the following amendment circulated in my name:

> Omit all words after "day" and substitute the words "for the next day of sitting.".

Question put:

> That **Mr Moore's** amendment be agreed to.

The Assembly voted—

Ayes 9		Noes 8	
Mrs Burke	Mr Osborne	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Rugendyke	Mr Corbell	Ms Tucker
Mr Hird	Mr Smyth	Mr Hargreaves	Mr Wood
Mr Humphries	Mr Stefaniak	Mr Kaine	
Mr Moore		Mr Quinlan	

Question so resolved in the affirmative.

Amendment agreed to.

Motion, as amended, agreed to.

Debate adjourned to the next sitting.

Protection Orders (Consequential Amendments) Bill 2001

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

> That this bill be agreed to in principle.

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

Children and Young People Amendment Bill 2001

Debate resumed from 29 March 2001, on motion by **Mr Moore**:

> That this bill be agreed to in principle.

MR WOOD (3.08 am): Mr Speaker, the opposition will be agreeing with this bill. It is a machinery matter which enables interstate transfers of orders and the like. It appears necessary because, among other things, terminology may vary between systems.

MR MOORE (Minister for Health, Housing and Community Services) (3.08 am), in reply: I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Workers Compensation Amendment Bill 2001

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

> That this bill be agreed to in principle.

MR BERRY (3.09 am): Mr Speaker, this is important legislation. In order to give a picture of the level of interest in this issue, I would like to treat the Assembly to a little bit of history about workers compensation which I have taken from a document described as the "Evolution Of Workers Compensation in Canada". It is by a chap called Dr Robert G. Elgie. He was the chair of the Workers Compensation Board of

Nova Scotia. It talks about the history of workers compensation as it developed in the 19th century.

Workers compensation started in Germany, Great Britain and the United States in the late 1800s and early 1900s. In Germany it was not an outgrowth of the common law of employers' liability legislation. It was, according to Mr Elgie, the expression of an entirely new social principle that was traceable to early German guilds which provided disability, sickness and death benefits, with both contributions and administration shared equally by employers and employees.

Philosophically, involvement of the state in these issues was based on the views of the Lassalle Socialist Movement, along with Frederick the Great, who said, "It is the duty of the state to provide sustenance and support for those of its citizens who cannot provide sustenance for themselves." That was a noble social justice aim in those early days. It goes on to say:

> It was that arch-conservative, Chancellor Otto Von Bismarck who, in response to the rising Socialist movement, proposed and passed a number of pieces of social legislation between 1884 and 1886—among them was a compulsory state run accident compensation system financed by both employers and workers.

So this has origins that go well back to a period when the Industrial Revolution was building, and it flowed on to other places throughout the world.

According to Dr Elgie, in Great Britain it was quite different. There were common law principles in Great Britain. I quote again:

> Early jurisprudence in the 1800s made it almost impossible for workers to succeed in law suits against their employers in contract or in negligence. A series of very potent defences which became known as the "unholy trinity" arose—the voluntary acceptance of risk;

That seems to speak for itself. If you go some place to work you voluntarily accept the risk of it. This is without any access to any decisions in relation to the matter which I can rely on; I am just taking it as read:

> the fellow worker rule;

I am not quite sure what that means—

> and the contributory negligence rule …

Which is one that we still hear about today in other cases of negligence. According to commentators then it meant that only about 17 per cent of accidents were due to employer fault. This was sorted out in Great Britain later on and the first true Workman's Compensation Act in Great Britain was passed in 1897. It placed full responsibility on an individual employer to compensate their own workers for their work related injuries. Mr Speaker, those are the early origins of workers compensation.

My brief research into the matter in Australia revealed workers compensation developments in South Australia in about 1900. Workers compensation has developed in different ways in many of the states, especially in relation to the funding arrangements. In most states they were government guaranteed funding arrangements. We have seen some of the difficulties which have emerged, in particular in New South Wales, which surrounds us, because it is a government guaranteed system. In the ACT it is a private sector system; it is not guaranteed by the government. That principally, I think, is because of the development of the ACT much later than was the case with the states.

Mr Speaker, workers compensation goes well back into history and it has always been a sensitive issue for working people. I have been here since 1972 and I still hear employers complaining about the cost of workers compensation premiums. I think ever will it be so because it is not an inexpensive insurance. But at the end of the day, we have to understand, and we do understand, I think, that insurance companies operate a business in this area and essentially, if I can put it crudely for the purpose of this discussion, they run a book on the risk associated with workplace incidents.

I have always taken the view, ever since I got involved in the industrial wing of the labour movement—I think this is borne out by all of the efforts of legislators around this country, indeed, around the world—that they have sought to impose workplace safety as a measure to reduce premiums rather than cut the benefits to workers, though at times there emerges a tendency to cut benefits for workers. Mr Speaker, on the face of it, this legislation does not set out to do that. That is a welcome change to the usual response one gets in relation to workers compensation from governments, because it is usually about cutting benefits to workers. That has not been the full thrust with this legislation, though that is not to say that there are not concerns about the structure of the legislation and how it applies to workers in all of its forms.

The legislation is accompanied by draft regulations which the minister indicates it is his intention to pursue. There have been some questions raised about that by the Justice and Community Safety Committee in its role as the scrutiny of bills committee. It talked about the way that the regulations would be made to deal with matters which might more appropriately be found in the bill itself. Mr Speaker, that is a view that I happen to take.

Tonight Mr Smyth has distributed some government amendments which I understand have resulted from discussions with some of the stakeholders in workers compensation. I have been in discussion with the stakeholders as well and I have a few amendments.

Mr Smyth: When are you going to circulate them?

MR BERRY: There are 67 pages of amendments. I have told everybody that as soon as I have the final draft I will circulate them. I have been saying that all day. The last time I checked I had not got the final draft, so I cannot distribute them. As soon as I get them and I am satisfied with them, I will distribute them. Mr Speaker, there is a lot more work to be done in relation to this legislation, and that will occur a couple of weeks down the track because of other commitments by the minister. We will not be

able to deal with it until the minister gets back in order to debate all the issues, which I am sure his staff will be busily working on when he is away.

Mr Speaker, workers compensation legislation is a fundamental for workers. Without a safety net in place in the workplace we would be going backwards. What we have to ensure in our discussion of this legislation is that we get an outcome which comprehensively deals with the problems of workers. I want to make sure that at the end of the day we end up with a comprehensive rehabilitation process to ensure that workers are returned to work rather than becoming captive of legal action or some other arrangements within the legislation which do not lend themselves well to full rehabilitation and recovery of workers who are injured.

Of course, the fundamental issue is to address injuries, but we have a long history in this place of addressing that through occupational health and safety approaches. We cannot say that the work is complete there; there is more work to be done.

In relation to this legislation, at this stage Labor is prepared to support it up to the in-principle stage. As soon as we can get all these amendments on the table we will busily address ourselves to completing legislation. It is my aim at this stage, Mr Speaker, subject again to discussions with stakeholders, to end up before this Assembly rises with a complete piece of legislation which has had the endorsement of this Assembly. That is no mean aim, I think, in the context of things because it is pretty comprehensive legislation.

The amendments which will be before the house in due course will form the basis of a comprehensive piece of legislation for the management of workers compensation in the ACT for some years to come. We are happy, as I said, to support the legislation to the in-principle stage, and I look forward to an in-depth debate about amendments in due course.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.20 am), in reply: Mr Speaker, I would like to thank the Assembly for their support for this legislation. It is very important legislation.

Ms Tucker: Is this closing the debate?

MR SPEAKER: Yes, he is.

MR SMYTH: We have worked for some 2½ years to make it work. I have a detailed speech here that I would like to give but I will wait and do it in the detail stage. I would like to compliment the officers who have worked very long and hard. I would like to compliment them on the amount of consultation and the thoroughness with which that was conducted. I would like to thank all those that have been involved.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

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

Proposed new temporary order 118A

MR BERRY (3.22 am): I seek leave to move the motion circulated in my name which members are aware of.

Leave granted.

MR BERRY: I do not need to speak to the motion as I think it explains itself. I move:

> That the following temporary order be adopted:
>
> **Standing Order 118A**
>
> (i) omit "(including a question taken on notice during questions without notice)";
>
> (ii) add "If a Minister takes a question on notice, that answer, or an explanation why there is no answer, must be provided prior to the adjournment of the Assembly on 30 August 2001".

Question resolved in the affirmative.

Adjournment

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

> That the Assembly do now adjourn.

Government housing

MR BERRY (3.22 am): Mr Speaker, I have one issue I want to comment on before we go home, and I am sorry that it is so late. The other day I heard Mr Moore say that when someone sees a government house being damaged or damaged they should call the police. A constituent has written to me in high dudgeon, I think, about a call that this person made to the police because she was being harassed by persons adjacent to her house. She was asked what sort of housing she lived in and she explained that she lived in a Housing Trust house. Regrettably, the policeman informed her that the best thing she could do was move. I just raise that in the context of what Mr Moore said when he suggested that they should ring the police.

I do not know all of the circumstances of the discussion. I merely know what the person has written to me. I just think that that suggests to me that there is a view about what happens around some government housing which, if it is true, is quite unfair. I just need to make sure that this person's comments are on the record because the person was highly distressed about this issue. When somebody is reading this *Hansard*

about what I have said I hope they understand that there has to be a bit more sensitive approach taken to these sorts of things.

Government housing
Member's language

MR MOORE (Minister for Health, Housing and Community Services) (3.24 am), in reply: I will close the debate. Mr Speaker, I will respond now to Mr Berry. The police minister and I had a discussion as he was speaking and we will ensure that our senior officials discuss that matter. That kind of response is inappropriate. Whilst we are doing work at housing to try to help, we think it is appropriate that the Chief Police Officer and the head of housing discuss that matter and understand it. If you would like to provide us with specific details, Mr Berry, although that is not particularly necessary, it might be helpful.

There is one other matter, Mr Speaker, before I sit down. When Ms Tucker was speaking earlier on a motion that she had sprung on us I did make a comment as an aside. I regret saying what I did, Mr Speaker, and I withdrew the inappropriate language that I used as an aside.

Question resolved in the affirmative.

Assembly adjourned at 3.26 am (Friday) until Tuesday, 21 August 2001, at 10.30 am

Schedules of amendments

Schedule 1

ACTION CORPORATION BILL 1999

Amendments circulated by Mr Quinlan

1)
Clause 1
Page 1, line 5—

Omit "*Corporation*", substitute "*Authority*".

2)
Clause 3
Definition of *appointed director*
Page 2, line 8—

Omit "corporation", substitute "authority".

3)
Clause 3
Proposed new definition of *authority*
Page 2, line 9—

Insert the following definition:

authority means ACTION authority.

4)
Clause 3
definition of *board*
Page 2, line 9—

Omit "corporation", substitute "authority".

5)
Clause 3
Definition of *corporation*
Page 2, line 13—

Omit the definition.

6)
Clause 3
Definition of *director*
Page 2, line 14—

Omit "corporation", substitute "authority".

7)
Heading to Part 2
Page 3, line 1—

Omit "**CORPORATION**", substitute "**AUTHORITY**".

8)
Clause 4
Subclause (1)
Page 3, line 4—

Omit "Corporation", substitute "Authority".

9)
Clause 4
Subclause (2)
Page 3, line 5—

Omit "corporation", substitute "authority".

10)
Clause 5
Page 3, line 9—

Omit "corporation", substitute "authority".

11)
Clause 5
Paragraphs (a) and (b)
Page 3, line 10—

Omit the paragraphs, substitute the following paragraphs:

(a) to provide an effective, affordable and accessible public transport network within its area of operation; and

(b) without prejudice to paragraph (a), to operate on a sound commercial basis; and

12)
Clause 5
Paragraph (c)
Page 3, line 14—

Omit "corporation", substitute "authority".

13)
Clause 5
Paragraph (e)
Page 3, line 18—

Omit "corporation", substitute "authority".

14)
Clause 5
Paragraph (g)
Page 3, line 20—

Omit "corporation", substitute "authority".

15)
Clause 6
Subclause (1)
Page 3, line 25—

Omit "corporation", substitute "authority".

16)
Clause 6
Subclause (2)
Page 3, line 27—

Omit "corporation", substitute "authority".

17)
Clause 7
Subclause (1)
Page 3, line 30—

Omit "The corporation or any company that, under the Corporations Law, is a subsidiary of the corporation,", substitute "The authority or a company that, for the Corporations Act, is a subsidiary of the authority,".

18)
Clause 7
Paragraph (1) (b)
Page 4, line 1—

Omit the paragraph.

19)
Clause 7
Subclause (2)
Page 4, line 7—

Omit "corporation", substitute "authority".

20)
Clause 7
Proposed new subclauses (3) and (4)
Page 4, line 9—

After subclause (2), insert the following new subclause:

(3) The authority or a company mentioned in subsection (1) must not dispose of any of its main undertakings unless the Legislative Assembly has, by resolution, approved the disposal.

(4) A purported disposal in contravention of subsection (3) is void.

21)
Clause 8
Page 4, line 12—

Omit “corporation”, substitute “authority”.

22)
Clause 9
Subclause (1)
Page 4, line 16—

Omit “corporation”, substitute “authority”.

23)
Clause 9
Paragraph (2) (a)
Page 4, line 19—

Omit “corporation”, substitute “authority”.

24)
Clause 9
Paragraph (2) (b)
Page 4, line 20—

Omit “corporation”, substitute “authority”.

25)
Clause 10
Subclause (2)
Page 4, line 24—

Omit “corporation”, substitute “authority”.

26)
Clause 11
Subclause (1)
Page 5, line 1—

Omit the subclause, substitute the following subclauses:

(1) The Minister may appoint a person to be director of the authority.

(1A) The number of appointed directors must be not less than 4 nor more than 6.

27)
Clause 12
Subclause (1)
Page 5, line 6—

Omit “, by instrument,”.

28)
Clause 12
Page 5, line 15—

[Oppose the clause.]

29)
Clause 15
Paragraph (1) (b)
Page 5, line 25—

Omit "corporation", substitute "board".

30)
Clause 15
Paragraph (3) (c)
Page 6, line 11—

Omit "corporation", substitute "authority".

31)
Clause 16
Proposed new subclauses (4), (5) and (6)
Page 6, line 26—

After subclause (3), insert the following new subclauses:

(1) The chairperson of the board must, within 7 days after the end of each financial year, give to the Minister a statement that sets out the details of all disclosures under this section made during the financial year.

(2) The Minister must give to the relevant committee of the Legislative Assembly a copy of a statement received under subsection (4) within 14 days after receiving the statement.

(3) In this section:

relevant committee means—

(a) a standing committee of the Legislative Assembly nominated by the Speaker for this section; or

(b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.

32)
Clause 17
Paragraph (1) (a)
Page 6, line 33—

Omit "corporation", substitute "authority".

33)
Clause 20
Subclause (1)
Page 8, line 4—

Omit “corporation”, substitute “authority”.

34)
Clause 20
Subclause (2)
Page 8, line 5—

Omit “corporation”, substitute “authority”.

35)
Clause 20
Subclause (3)
Page 8, line 10—

Omit “corporation”, substitute “authority”.

36)
Clause 20
Subclause (4)
Page 8, line 11—

Omit “corporation”, substitute “authority”.

37)
Clause 20
Subclause (5)
Page 8, line 13—

Omit “corporation”, substitute “authority”.

38)
Clause 21
Paragraph (1) (a)
Page 8, line 18—

Omit “corporation’s”, substitute “authority’s”.

39)
Division 3.2
Heading
Page 8, line 25—

Omit “***and consultants***”.

40)
Clause 22
Page 8, line 26—

Omit the clause, substitute the following clause:

22 Staff

(1) The authority may employ the staff it considers necessary to exercise its functions.

(2) The terms and conditions of employment of staff employed by the authority are as set out in a negotiated industrial agreement under the *Workplace Relations Act 1996* (Cwth).

(3) Subsection (2) does not apply to staff at an executive level.

41)
Clause 23
Subclause (1)
Page 8, line 32—

Omit "corporation", substitute "Minister".

42)
Clause 23
Subclause (2)
Page 9, line 7—

Omit "changed—", substitute "changed by a negotiated industrial agreement—".

43)
Clause 24
Page 9, line 25—

[Oppose the clause.}

44)
Clause 25
Page 10, line 2—

Omit the clause, substitute the following clause:

25 Requests for information

The authority must provide the Minister with all the information about the affairs of the authority that the Minister requests.

45)
Clause 26
Page 10, line 6—

Omit "corporation", substitute "authority".

46)
Clause 26
Paragraph (a)
Page 10, line 8—

Omit "corporation", substitute "authority".

47)
Clause 26
Paragraph (c)
Page 10, line 10—

Omit “corporation”, substitute “authority”.

48)
Clause 26
Paragraph (d)
Page 10, line 11—

Omit “corporation”, substitute “authority”.

49)
Clause 27
Subclause (1)
Page 10, line 13—

Omit “corporation”, substitute “authority”.

50)
Clause 27
Paragraph (2) (a)
Page 10, line 16—

Omit “corporation”, substitute “authority”.

51)
Clause 27
Paragraph (2) (b)
Page 10, line 17—

Omit “corporation”, substitute “authority”.

52)
Clause 27
Paragraph (2) (c)
Page 10, line 19—

Omit “corporation”, substitute “authority”.

53)
Clause 27
Subclause (4)
Page 10, line 22—

Omit “corporation”, substitute “authority”.

54)
Clause 27
Subclause (5)
Page 10, line 24—

Omit “corporation”, substitute “authority”.

55)
Clause 27
Paragraph (6) (a)
Page 10, line 27—

Omit “corporation”, substitute “authority”.

56)
Clause 27
Paragraph (6) (b)
Page 10, line 31—

Omit “if the direction requires the corporation to perform an activity in a way that is different from the manner in which the corporation”, substitute “if the direction requires the authority to perform an activity in a way that is different from the way in which the authority”.

57)
Clause 27
Paragraph (6) (c)
Page 11, line 1—

Omit “corporation”, substitute “authority”.

58)
Clause 27
Subclause (7)
Page 11, line 6—

Omit “corporation”, substitute “authority”.

59)
Clause 28
Subclause (1)
Page 11, line 9—

Omit “corporation”, substitute “authority”.

60)
Clause 28
Subclause (2)
Page 11, line 13—

Omit “corporation”, substitute “authority”.

61)
Clause 28
Paragraph (2) (g)
Page 11, line 26—

Omit “corporation”, substitute “authority”.

62)
Clause 28
Subparagraph (2) (i) (i)
Page 11, line 32—

Omit “corporation”, substitute “authority”.

63)
Clause 29
Subclause (1)
Page 12, line 2—

Omit “corporation”, substitute “authority”.

64)
Clause 29
Subclause (2)
Page 12, line 6—

Omit “corporation”, substitute “authority”.

65)
Clause 29
Subclause (3)
Page 12, line 12—

Omit “corporation”, substitute “authority”.

66)
Clause 30
Subclause (1)
Page 12, line 16—

Omit “corporation”, substitute “authority”.

67)
Clause 30
Subclause (2)
Page 12, line 18—

Omit “corporation”, substitute “authority”.

68)
Clause 31
Subclause (1)
Page 12, line 30—

Omit the subclause, substitute the following subclause:

(1) In addition to any other reports that the authority is required by this Act or any other law to make, the authority must give to the Treasurer the reports that the Treasurer requires.

69)
Heading to Division 5.1
Page 13, line 2—

Omit "*corporation*", substitute "*authority*".

70)
Clause 32
Definition of *relevant person*, paragraph (b)
Page 13, line 7—

Omit "corporation", substitute "authority".

71)
Clause 32
Definition of *relevant person*, paragraph (c)
Page 13, line 8—

Omit "corporation", substitute "authority".

72)
Clause 33
Page 13, line 13—

Omit "corporation", substitute "authority".

73)
Clause 34
Page 13, line 19—

Omit "corporation", substitute "authority".

74)
Clause 35
Page 13, line 22—

Omit the clause, substitute the following clause:

35 Power to bind authority

Anything done on behalf of the authority by the board or the chief executive is taken to have been done by the authority.

75)
Clause 36
Page 13, line 26—

Omit "corporation", substitute "authority".

76)
Clause 36
Paragraph (b)
Page 13, line 31—

Omit "corporation", substitute "authority".

77)
Clause 37
Page 14, line 3—

Omit "corporation as if the corporation", substitute "authority as if the authority".

78)
Clause 38
Page 15, line 2—

Omit the clause, substitute the following clause:

38 Transfer of assets, rights and liabilities

(1) The Minister may, in writing, declare that assets, rights or liabilities of the Territory vest in the authority.

(2) If an asset, right or liability that is transferred to the authority under this section is mentioned in a contract, agreement or arrangement, the reference to the Territory in the contract, agreement or arrangement is to be read (except in relation to matters that occurred before the vesting) as a reference to the authority.

(3) A declaration under subsection (1) is a disallowable instrument.

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

(4) Unless a declaration is disallowed by the Legislative Assembly, the declaration commences—

(a) on the day after the last day when it could have been disallowed; or

(b) if the declaration provides for a later date or time of commencement—on that date or time.

79)
Clause 39
Subclause (1)
Page 15, line 20—

Omit "corporation", substitute "authority".

80)
Title
Page 1—

Omit "**Corporation**", substitute "**Authority**".

Schedule 2

ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) BILL 2000

Amendments circulated by the Minister for Urban Services

1
Part 1
note
Page 2, line 2—

Omit ", and the regulations made under it, form", substitute "(including the regulations) forms".

2
Proposed new clauses 6A to 6C
Page 3, line 30—

After clause 6, insert the following new clauses:

6A Register of accredited people

(1) The accredited bus operators register may include information given to the road transport authority under this Act and any other information the authority considers appropriate.

Note Section 6 (b) requires a register of accredited bus service operators to be kept.

(2) The register may be kept in the form of, or as part of, 1 or more computer databases or in any other form the road transport authority considers appropriate.

(3) The road transport authority may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.

(4) This section does not limit the functions of the road transport authority in relation to the register.

6B Disclosure of information in registers

The road transport authority must ensure that information in the accredited bus operators register that is of a personal nature or has commercial sensitivity for a person about whom it is kept is released only in accordance with this Act or another law in force in the Territory.

6C Trade Practices Act authorisation

For the *Trade Practices Act 1974* (Cwlth) and the Competition Code of the Australian Capital Territory, the following are authorised by this Act:

(a) everything done under this Act;

(b) all service contracts made under this Act;

(c) everything done under a service contract, or a provision of a service contract, authorised by this Act.

Note 1 For the Competition Code of the Australian Capital Territory, see the *Competition Policy Reform Act 1996*, s 5 and s 10.

Note 2 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

3
Clause 12
Page 5, line 22—

Omit the clause, substitute the following clause:

12 Bus operators—purposes of accreditation
(NSW s 7 (2))

The purpose of accreditation under the regulations to operate a bus service is to ensure that—

(a) the accredited person has the financial capacity to meet the service standards for the service; and

(b) the accredited person, and each person who is concerned with, or takes part in, the management of the service, are suitable people to operate the service; and

(c) the accredited person, and each person who is concerned with, or takes part in, the management of the service, have demonstrated the capacity to comply with the relevant regulations and, in particular, the regulations about—

(i) the safety of passengers and the public; and

(ii) the maintenance of public buses.

4
Clauses 13 and 14
Page 6, line 7—

[Oppose the clauses.]

5
Clause 15
Paragraphs (1) (d) and (e)
Page 7, line 1—

Omit the paragraphs, substitute the following new paragraphs:

(d) matters relating to the giving, refusal or surrender of accreditations; and

(e) the action that may be taken in relation to accreditations in circumstances prescribed under the regulations, including—

(i) the suspension or cancellation of an accreditation; and

(ii) the imposition of a condition on, or the amendment of a condition of, an accreditation; and

(iii) an order that an accredited person pay to the Territory an amount of not more than—

(A) for an individual—$5,000; or

(B) for a corporation—$25,000; and

(iv) the reprimanding of an accredited person.

6
Clause 15
Proposed new subclause (1A)
Page 7, line 5—

After subclause (1), insert the following new subclause:

(1A) The regulations may make provision in relation to the accreditation of people to operate bus services, including, for example—

(a) requirements about the suitability of the applicant and each person who will be concerned with, or take part in, the management of the network; and

(b) capacity to meet service standards; and

(c) financial viability.

7
Clause 16
Page 7, line 11—

[Oppose the clause.]

8
Clause 17
Subclause (3)
Page 8, line 27—

Omit the subclause.

9
Clause 23
Subclause (2)
Proposed new note
Page 11, line 18—

After the subclause, insert the following new note:

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

10
Proposed new clause 23A
Page 11, line 18—

After clause 23, insert the following new clause:

23A Regulations about operation of bus services by accredited people

The regulations may make provision in relation to the operation of bus services by accredited bus service operators, including, for example—

(a) the conduct of bus services, including, for example—

(i) the safety of passengers and the public; and

(ii) the qualifications, training and experience of bus drivers and other people providing services on behalf of accredited bus service operators; and

(iii) maximum driving times and minimum rest times of bus drivers; and

(iv) insurance; and

(v) the issue of tickets; and

(vi) customer complaints and inquiries; and

(b) the preparation and publication of, and compliance with, timetables for regular route services; and

(c) the obligations of drivers of public buses and other people providing services on behalf of accredited bus service operators; and

(d) the requirements that public buses, and their equipment and fittings (internal and external), must comply with; and

(e) the maintenance and cleaning of public buses; and

(f) maintenance, parking and other facilities for public buses; and

(g) the making and keeping of records and their inspection; and

(h) the auditing of records and systems; and

(i) the provision of information and reports to the road transport authority.

11
Clause 24
Page 11, line 20—

Omit "for or with respect to", substitute "in relation to".

12
Clause 28
Subclause (1)
Proposed new note
Page 13, line 3—

After the subclause, insert the following new note:

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

13

14

15
Clause 29
Page 13, line 7—

Omit the clause, substitute the following clause:

29 Regulations may apply certain documents etc

The regulations may apply, adopt or incorporate (with or without change) an instrument, or a provision of an instrument, as in force from time to time.

Note 1 A statutory instrument may also apply, adopt or incorporate (with or without change) a law or instrument (or a provision of a law or instrument) as in force at a particular time (see *Legislation Act 2001*, s 47 (1)).

Note 2 If a statutory instrument applies, adopts or incorporates a law or instrument (or a provision of a law or instrument), the law, instrument or provision may be taken to be a notifiable instrument that must be notified under the *Legislation Act 2001* (see s 47 (2)-(6)).

16
Clause 30
Subclause (1)
Page 13, line 13—

After "The Minister may", insert ", in writing,".

17
Clause 30
Subclause (2)
Page 13, line 15—

Omit the subclause, substitute the following subclause and note:

(2) An exemption is a disallowable instrument.

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

18
Clause 35
Page 16, line 2—

Omit "on 1 April 2002", substitute "18 months after it commences".

19
Clause 36
Subclause (5)
Page 16, line 18—

Omit "on 30 June 2001", substitute "12 months after this section commences".

20

21

22
Clause 38
Page 17, line 2—

Omit “on 30 June 2001”, substitute “12 months after it commences”.

23
Clause 44
Page 18, line 8—

Omit “on 30 June 2001”, substitute “6 months after it commences”.

24
Clause 45
Subclause (4)
Page 18, line 24—

Omit “on 31 December 2001”, substitute “12 months after this section commences”.

25
Clause 46
Page 18, line 26—

Omit “on 31 December 2001”, substitute “12 months after it commences”.

26
Clause 47
Subclause (5)
Page 19, line 21—

Omit “on 30 June 2001”, substitute “12 months after this section commences”.

27
Clause 47
Subclause (7)
Page 19, line 27—

Omit “on 30 June 2001”, substitute “12 months after this section commences”.

28
Clause 48
Page 19, line 29—

Omit “on 30 June 2001”, substitute “12 months after it commences”.

29
Clause 49
Subclause (4)
Page 20, line 14—

Omit “on 31 December 2002”, substitute “18 months after it commences”.

30

31

32
Clause 50
Page 20, line 16—

Omit "on 31 December 2002", substitute "18 months after it commences".

33
Proposed new part 5 and schedule 1
Page 20, line 16—

After clause 50, insert the following new part and schedule:

Part 5 Repeals and consequential amendments

51 Repeals

(1) The *Motor Omnibus Services Act 1955* is repealed.

(2) The following subordinate laws are repealed:

(a) the *Motor Omnibus Services Regulations* SL 1955 No 14;

(b) the *Road Transport (Bus Services) Regulations 2000* SL 2000 No 9.

(3) If this section commences before the commencement of the *Legislation Act 2001*, section 18 (ACT legislation register), the *Road Transport Legislation Amendment Act 2001* is repealed.

52 Schedule 1

Schedule 1 amends the Acts and subordinate laws mentioned in that schedule.

53 Expiry of pt 5 and schedule 1

This part and schedule 1 expire on 31 December 2001.

Schedule 1 Consequential amendments

(see s 52)

Part 1.1 Magistrates Court Act 1930

[1.1] Section 116AA (2), definition of *road transport legislation*, paragraphs (d) to (g)

renumber as paragraphs (e) to (h)

[1.2] Section 116AA (2), definition of *road transport legislation*, new paragraph (d)

insert

(d) the *Road Transport (Public Passenger Services) Act 2001*;

[1.3] Section 116AA (2), definition of *road transport legislation*, paragraph (g)

omit

(f)

substitute

(g)

Part 1.2 Road Transport (Alcohol and Drugs) Act 1977

[1.4] Part 1, note

after

the *Road Transport (General) Act 1999*,

insert

the *Road Transport (Public Passenger Services) Act 2001*,

[1.5] Section 4B (1) (f) (iv)

substitute

(iv) a public vehicle within the meaning of the *Road Transport (General) Act 1999*, section 158;

Part 1.3 Road Transport (Dimensions and Mass) Act 1990

[1.6]..Part 1, note

after

the *Road Transport (General) Act 1999*,

insert

the *Road Transport (Public Passenger Services) Act 2001*,

Part 1.4 Road Transport (Driver Licensing) Act 1999

[1.7] Part 1, note

after

the *Road Transport (General) Act 1999*,

insert

the *Road Transport (Public Passenger Services) Act 2001*,

[1.8] Section 4, note 1

omit all the words after

For example,

substitute

the signpost definition '***public vehicle***—see the *Road Transport (General) Act 1999*, section 158.' means the expression 'public vehicle' is defined in section 158 of that Act and the definition applies to this Act

[1.9] Dictionary, definition *public vehicle*

substitute

public vehicle—see the *Road Transport (General) Act 1999*, section 158.

Part 1.5 Road Transport (General) Act 1999

[1.10] Part 1, note

after

the *Road Transport (Driver Licensing) Act 1999*,

insert

the *Road Transport (Public Passenger Services) Act 2001*,

[1.11] Section 6

insert

(da) the *Road Transport (Public Passenger Services) Act 2001*;

[1.12] Section 6

renumber paragraphs when Act next republished under Legislation Act 2001

[1.13] Section 100, definition of *private hire car*

omit

bus

substitute

public bus

[1.14] Section 100, definition of *public vehicle*

omit

bus,

[1.15] Section 100, definition of *restricted hire vehicle*

omit

bus

substitute

public bus

[1.16] Section 100, definition of *taxi*

omit

bus

substitute

public bus

[1.17] Section 100, definitions of *bus*, *bus operator's licence*, *bus service licence*, *visiting bus* and *visiting bus operator's licence*

omit

[1.18] Divisions 9.6 to 9.8

omit

[1.19] Section 155

omit

A person

substitute

(1) A person

[1.20] Section 155

insert

(2) This section does not apply to a public bus.

[1.21] Section 156

omit

, bus operator's licence

[1.22] Section 158

insert

public vehicle means a private hire car, public bus, restricted hire vehicle, restricted taxi or taxi.

[1.23] Dictionary, definitions of *bus*, *bus operator's licence*, *bus service licence*, *visiting bus* and *visiting bus operator's licence*

omit

[1.24] Dictionary, definition of *public vehicle*

substitute

public vehicle—

(a) for part 9 (Public vehicles)—see section 100; and

(b) for part 10 (Compulsory vehicle insurance)—see section 158.

[1.25] Dictionary, new definition of *public bus*

insert

public bus—see the *Road Transport (Public Passenger Services) Act 2001*, dictionary.

Part 1.6 Road Transport (Safety and Traffic Management) Act 1999

[1.26] Part 1, note

after

the *Road Transport (General) Act 1999*,

insert

the *Road Transport (Public Passenger Services) Act 2001*,

Part 1.7 Road Transport (Vehicle Registration) Act 1999

[1.27] Part 1, note

after

the *Road Transport (General) Act 1999*,

insert

the *Road Transport (Public Passenger Services) Act 2001*,

Part 1.8 Victims of Crime (Financial Assistance) Act 1983

[1.28] Section 66 (3), definition of *infringement notice*, paragraph (d)

omit

, the *Motor Omnibus Services Act 1955*

Part 1.9 Dangerous Goods Regulations 1978

[1.29] Regulation 14 (8) (b) (vii) to (ix)

renumber as paragraphs 14 (8) (b) (viii) to (x)

[1.30] Regulation 14 (8), new paragraph (b) (vii)

insert

(vii) the *Road Transport (Public Passenger Services) Act 2001*; or

[1.31] Regulation 14 (8) (b) (ix)

omit

(viii)

substitute

(ix)

Part 1.10 Road Transport (Driver Licensing) Regulations 2000

[1.32] Dictionary, definitions of *public bus* and *public vehicle*

substitute

public bus—see the *Road Transport (Public Passenger Services) Act 2001*, dictionary.

public vehicle—see the *Road Transport (General) Act 1999*, section 158.

[1.33] Dictionary, definition of *public vehicle regulations*, paragraphs (a) and (b)

substitute

(a) the *Road Transport (Hire Vehicle Services) Regulations 2000*;

(b) the *Road Transport (Public Passenger Services) Regulations 2001*;

Part 1.11 Road Transport (General) Regulations 2000

[1.34] Regulation 14 (1) (e) and (f)

after

a driving instructor's accreditation

insert

or accreditation to operate a bus service

[1.35] Regulation 14 (3) (d)

omit

if the driving instructor surrenders the accreditation

substitute

or accreditation to operate a bus service if the accreditation is surrendered

[1.36] Regulation 16 (1) (b)

after

driving instructor's accreditation

insert

or accreditation to operate a bus service

[1.37] Dictionary, new definition of *bus service*

insert

bus service—see the *Road Transport (Public Passenger Services) Act 2001*, dictionary.

Part 1.12 **Road Transport (Safety and Traffic Management) Regulations 2000**

[1.38] Regulation 33 (1), definition of *public bus*

substitute

public bus—see the *Road Transport (Public Passenger Services) Act 2001*, dictionary.

[1.39] Regulation 57A (1) (b)

substitute

(b) is stopping for a regular route service.

[1.40] Regulation 57A (3) (c)

substitute

(c) is stopping for a regular route service.

[1.41] Regulation 57A (4)

insert

regular route service—see the *Road Transport (Public Passenger Services) Act 2001*, section 9 (What is a ***regular route service***?).

[1.42] Dictionary, definition of *public bus*

substitute

public bus—see the *Road Transport (Public Passenger Services) Act 2001*, dictionary.

34
Dictionary
Definition of *accredited*
Page 21, line 2—

Omit "these regulations", substitute "the regulations".

35
Dictionary
Definitions of *director* and *executive officer*
Page 21, line 11—

Omit the definitions.

36
Dictionary
Definitions of *standard*, *the regulations* and *this Act*
Page 23, line 15—

Omit the definitions.

Schedule 3

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT BILL 2000

Amendment circulated by the Minister for Urban Services

37
Proposed new clauses 3A to 3E
Page 2, line 9—

After clause 3, insert the following new clauses:

3A Section 10B (1) (b) and (c)

renumber as paragraphs 10B (1) (a) and (b)

3B Section 10B

renumber subsections under Legislation Act 2001 when Act next republished

3C Section 10C, 10D, 10F and 10G

omit

3D Section 10I

omit

section 10B (1) (a), (b) or (c)

substitute

section 10B (1) (a)

3E Sections 10AA, 10A, 10B, 10E, 10H, 10I and 10J

renumber sections under Legislation Act 2001 when Act next republished

Schedule 4

CRIMES LEGISLATION AMENDMENT BILL 2001

Amendment circulated by the Leader of the Opposition

PART 1

38
Clause 5
Page 3, line 15—

[Oppose the clause.]

39
Part 3
Page 6, line 2—

Omit the part.

40
Clause 13
Proposed new subsection 107A (2)
Page 9, line 10—

Omit the subsection, substitute the following subsection:

(2) In the prosecution of a person for an offence against this section, the prosecution must establish beyond reasonable doubt that the defendant—

(a) did not have reasonable grounds for believing that the cheque would be paid in full on presentation; or

(b) had an intention to defraud.

41
Clause 16
Proposed new subsection 349SA (1)
Page 10, line 22—

Omit the subsection, substitute the following subsection:

(1) This section applies if a police officer believes, on reasonable grounds, that—

(a) a person is carrying, or otherwise has in his or her possession, a thing (the ***relevant thing***) relevant to an indictable offence; and

(b) it is necessary to exercise a power under subsection (2) to prevent the thing from being concealed, lost or destroyed; and

(c) it is necessary to exercise the power without the authority of a search warrant because the circumstances are serious and urgent.

42

43

44
Clause 18
Page 12, line 1—

[Oppose the clause.]

45
Clause 19
Page 12, line 9—

[Oppose the clause.]

46
Clause 21
Page 12, line 20—

[Oppose the clause.]

47
Clause 22
Page 13, line 1—

[Oppose the clause.]

48
Clause 24
Page 13, line 8—

[Oppose the clause.]

49
Clause 25
Page 13, line 14—

[Oppose the clause.]

50
Clause 26
Page 13, line 21—

[Oppose the clause.]

51
Clause 27
Page 14, line 1—

[Oppose the clause.]

52
Clause 39
Proposed new subsection 546C (5A)
Page 18, line 13—

After proposed new subsection (5), insert the following new subsection:

(5A) A thing may be seized under subsection (5) only from residential premises.

53

54

55
Proposed new clause 40A
Page 19, line 8—

After clause 40, insert the following new clause:

40A New section 546CA

insert

546CA Compensation because of seizure under s 546C (5)

(1) A person may claim compensation from the Territory if the person suffers loss or expense because of seizure of anything under section 546C (5) by a police officer.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

56
Clause 41
Proposed new paragraph 557B (1) (c)
Page 20, line 11—

Omit the paragraph.

57
Clause 41
Proposed new paragraph 557J (2) (ba)
Page 24, line 2—

After proposed new paragraph 557J (2) (b), insert the following paragraph:

(ba) quash the conviction; or

58
Clause 54
Page 30, line 7—

[Oppose the clause.]

59
Part 10
Page 34, line 2—

Omit the part.

PART 2 – Leader of the Opposition

60
Clause 68
Proposed new subsection 37R (2A)
Page 34, line 20—

After subsection (2), insert the following subsection:

(2A) If the director of public prosecutions makes an application under subsection (2), the Territory must meet all reasonable legal costs the defendant incurs in opposing the application.

61
Clause 68
Proposed new subsection 37R (3)
Page 35, line 1—

Omit the subsection, substitute the following subsection:

(3) The Court of Appeal may make an order to review an acquittal only if the court considers that—

(a) the trial judge made an error of law in the course of the trial; and

(b) the error affected the decision to acquit the defendant.

Example (par (a))

George is acquitted of an offence in a jury trial in the Supreme Court. During the trial, the judge decided to exclude certain evidence sought to be admitted by the prosecution. The director of public prosecutions applies for an order to review the acquittal. The Court of Appeal decides that the judge made an error of law in excluding the evidence and that its exclusion affected the decision to acquit the defendant. The Court of Appeal may accordingly make an order to review George's acquittal.

Schedule 5

CRIMES LEGISLATION AMENDMENT BILL 2001

Amendment circulated by the Attorney-General

PART 1

62
Proposed new clause 37A
Page 17, line 23—

After clause 37, insert the following new clause:

37A Indecent exposure
Section 546B

omit

is guilty of an offence punishable, on conviction, by a fine not exceeding $1,000

substitute

commits an offence.

Maximum penalty: 20 penalty units, imprisonment for 1 year or both.

63
Proposed new part 4A
Page 24, line 24—

After part 4, insert the following new part:

Part 4A Crimes (Forensic Procedures) Act 2000

42A Act amended in pt 4A

This part amends the *Crimes (Forensic Procedures) Act 2000*.

42B New section 94

substitute

94 Definitions relating to DNA database system

In this Act:

corresponding DNA index means an index of DNA profiles established, kept or maintained under a law, or a provision of a law, of the Commonwealth or a State, whether or not the law or provision is a corresponding law.

Note ***State*** includes the Northern Territory (see *Legislation Act 2001*, dict).

corresponding statistical index means an index of information obtained from the analysis of forensic material that is established, kept or maintained under a law, or a provision of a law, of the Commonwealth or a State, whether or not the law or provision is a corresponding law.

crime scene index means—

(a) an index of DNA profiles derived from forensic material found—

(i) at any place (whether in or outside Australia) where a serious offence was, or is reasonably suspected of having been, committed; or

(ii) on or within the body of the victim, or a person reasonably suspected of being a victim, of a serious offence; or

(iii) on anything worn or carried by the victim when a serious offence was, or is reasonably suspected of having been, committed; or

(iv) on or within the body of anyone, on anything, or at any place, associated with the commission of a serious offence; or

(b) a corresponding DNA index prescribed under the regulations for this definition.

DNA database system means a database (whether in computerised or other form and however described) containing—

(a) the following indexes of DNA profiles:

(i) a crime scene index;

(ii) a missing persons index;

(iii) an unknown deceased persons index;

(iv) a serious offenders index;

(v) a volunteers (unlimited purposes) index;

(vi) a volunteers (limited purposes) index;

(vii) a suspects index;

and information that may be used to identify the person from whose forensic material each DNA profile was derived; and

(b) a statistical index; and

(c) any other index prescribed under the regulations.

missing persons index means—

(a) an index of DNA profiles derived from forensic material of—

(i) persons who are missing; and

(ii) volunteers who are relatives by blood of missing persons; or

(b) a corresponding DNA index prescribed under the regulations for this definition.

serious offenders index means—

(a) an index of DNA profiles derived from forensic material taken—

(i) under part 2.7 (Carrying out of certain forensic procedures after conviction of serious offenders) from serious offenders; or

(ii) under part 2.3 (Forensic procedures by consent of suspect), part 2.4 (Non-intimate forensic procedures on suspect by order of a police officer) or part 2.5 (Forensic procedures on suspect by order of a magistrate) from suspects who have been convicted of a serious offence; or

(b) a corresponding DNA index prescribed under the regulations for this definition.

statistical index means—

(a) an index of information that—

(i) is obtained from the analysis of forensic material taken from people under this Act; and

(ii) has been compiled for statistical purposes; and

(iii) cannot be used to discover the identity of people from whom the forensic material was taken; or

(b) a corresponding statistical index prescribed under the regulations for this definition.

suspects index means—

(a) an index of DNA profiles derived from forensic material taken from suspects under part 2.3 (Forensic procedures by consent of suspect), part 2.4 (Non-intimate forensic procedures on suspect by order of a police officer) or part 2.5 (Forensic procedures on suspect by order of a magistrate); or

(b) a corresponding DNA index prescribed under the regulations for this definition.

unknown deceased persons index means—

(a) an index of DNA profiles derived from forensic material of dead people whose identities are unknown; or

(b) a corresponding DNA index prescribed under the regulations for this definition.

volunteers (limited purposes) index means—

(a) an index of DNA profiles derived from forensic material taken under part 2.8 (Carrying out of forensic procedures on volunteers and certain other people) from volunteers who (or whose parents or guardians) have been informed that information obtained will be used only for the purpose of a criminal investigation or any other purpose for which the DNA system may be used under this part; or

(b) a corresponding DNA index prescribed under the regulations for this definition.

volunteers (unlimited purposes) index means—

(a) an index of DNA profiles derived from material taken—

(i) under part 2.8 (Carrying out of forensic procedures on volunteers and certain other people) from volunteers who (or whose parents or guardians) have been informed under section 80 (2) (c) (Informed consent of volunteer or parent or guardian of volunteer) that information obtained may be used for the purpose of a criminal investigation or any other purpose for which the DNA database system may be used; or

(ii) from dead people whose identity is known; or

(b) a corresponding DNA index prescribed under the regulations for this definition.

42C Supply of forensic material for purposes of DNA database Section 95 (1) (a)

substitute

(a) the person's conduct causes the supply of forensic material taken from anyone under this Act (or under a law of another jurisdiction prescribed for this subsection) to anyone for prohibited analysis; and

42D Section 95 (3)

substitute

(3) In this section:

excluded forensic material means forensic material—

(a) found at a crime scene; or

(b) taken from a suspect in relation to a serious offence under part 2.3 (Forensic procedures by consent of suspect), part 2.4 (Non-intimate forensic procedures on suspect by order of a police officer) or part 2.5 (Forensic procedures on suspect by order of a magistrate); or

(c) taken from a serious offender or volunteer under part 2.7 (Carrying out of certain forensic procedures after conviction of serious offenders) or part 2.8 (Carrying out of forensic procedures on volunteers and certain other people); or

(d) taken from the body of a dead person; or

(e) that is from the body of a missing person; or

(f) taken from a volunteer who is a relative by blood of a dead or missing person; or

(g) taken under a law of another jurisdiction prescribed for this definition.

law, of another jurisdiction, means a law, or a provision of a law, of the Commonwealth or a State, whether or not the law is a corresponding law.

prohibited analysis means analysis for the purpose of deriving a DNA profile for inclusion on an index of the DNA database system when the forensic material is required to be destroyed by this Act or a law of another jurisdiction prescribed for this definition.

42E Definitions relating to interstate enforcement
Section 100, definitions of *corresponding law* and *DNA database*

substitute

corresponding law means a law, or a provision of a law, of the Commonwealth or a State that is prescribed under the regulations for this definition, whether or not the law corresponds, or substantially corresponds, to this Act.

DNA database means—

(a) for the Territory—the DNA database system; or

(b) for another participating jurisdiction—a database (whether in computerised or other form and however described) established, kept or maintained under a corresponding law.

64
Part 9
Heading
Page 33, line 3—

Omit "**2000**", substitute "**2001**".

65
Clause 63
Page 33, line 5—

Omit "*2000*", substitute "*2001*".

66
Clause 64
Heading
Page 33, line 7—

Omit "Schedule, part 12", substitute "Schedule 1, part 1.12".

PART 2 – Attorney-General

Clause 18
Proposed section 349T (1) (a)
Page 12, line 6—

insert

a thing stolen or otherwise unlawfully obtained

PART 3 – Attorney-General

New clause 18
Page 12, line 8—

insert in 349T (1) (a) after offence
or a thing stolen or otherwise unlawfully obtained,

PART 4 – Attorney-General

Clause 27
Page 14, line 15—

Omit
(4) (c) and (4) (d)

Schedule 6

CRIMES LEGISLATION AMENDMENT BILL 2001

Amendment circulated by Ms Tucker

67
Clause 10
Proposed new subsection 4 (4A)
Page 6, line 26—

After proposed new subsection (4), insert the following new subsection:

(4A) As soon as possible after giving a direction to a person under subsection (2), the police officer must make a written record of—

(a) the date, time and place of giving the direction; and

(b) details of the direction, including, for example, whether the direction was subject to a condition mentioned in subsection (3); and

(c) any details of the person known to the police officer; and

(d) the grounds for believing the relevant matter mentioned in subsection (1).

68
Clause 10
Proposed new subsections 4 (6), (7) and (8)
Page 7, line 8—

At the end of the section, add the following new subsections:

(6) The Minister must commission an independent review of the operation of this section not later than 2 years after the commencement of this section.

(7) The Minister must present a copy of the final report of the review to the Legislative Assembly within 3 months after the end of that 2-year period.

(8) Subsections (6), (7) and this subsection expire 30 months after the commencement of this section.

69
Clause 16
Proposed new subsections 349SA (3A) and (3B)
Page 11, line 12—

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

(3A) A frisk search under this section may only be carried out by a person of the same sex as the person being searched.

(3B) As soon as possible after exercising a power under subsection (2), the police officer must make a written record of—

(a) the date, time and place of exercising the power; and

(b) details of its exercise; and

(c) any details of the person known to the police officer; and

(d) the grounds for suspecting the relevant matter mentioned in subsection (1).

70
Clause 16
Proposed new subsections 349SA (5), (6) and (7)
Page 11, line 13—

At the end of the section, add the following new subsections:

(5) The Minister must commission an independent review covering the operation of this section not later than 2 years after the commencement of this section.

(6) The Minister must present a copy of the final report of the review to the Legislative Assembly within 3 months after the end of that 2-year period.

(7) Subsections (5), (6) and this subsection expire 30 months after the commencement of this section.

71
Proposed new clause 37A to be inserted by an amendment by the Attorney-General
Proposed new section 546B, penalty provision
Page 17, line 23—

Omit the penalty provision, substitute the following penalty provision:

Maximum penalty:

(a) for a 1st offence—10 penalty units; or

(b) for a 2nd or subsequent offence—20 penalty units, imprisonment for 1 year or both.

72
Clause 39
Proposed new subsection 546C (5A)
Page 18, line 13—

After proposed new subsection 546C (5), insert the following new subsection:

(5A) However, the police officer may seize the thing under subsection (5) only if the police officer has told the person, before the offence against subsection (2) or (3) was committed, that failure to comply with the direction, or resumption of conduct contrary to the direction within 6 hours after the direction was given, may lead to the thing being seized.

73
Clause 68
Proposed new paragraph 37R (3) (a)
Page 35, line 3—

Omit the paragraph, substitute the following paragraph:

(a) the trial judge made, in the course of the trial, an error of law that had a material effect on the outcome of the trial; or

74
Clause 68
Proposed new subsection 37R (4)
Page 35, line 12—

At the end of the section, add the following new subsection:

(4) If the Court of Appeal makes an order under subsection (2), the Territory must meet any reasonable legal costs the defendant incurs in relation to a new trial.

Schedule 7

CRIMES LEGISLATION AMENDMENT BILL 2001

Amendment to Mr Stanhope's amendment No. 4 circulated by the Minister for Health, Housing and Community Services

Clause 16
Proposed new subsection 349SA (1)
Page 10, line 22, subsection (1)

omit

believes

substitute

suspects

Schedule 8

CRIMES LEGISLATION AMENDMENT BILL 2001

Amendment to Mr Stanhope's amendment No. 4 circulated by Mr Osborne

Clause 16
Proposed new subsection 349SA (1)
Page 10, line 22, at end of paragraph (1) (a)

insert

or a thing stolen or otherwise unlawfully obtained.

Answers to questions

Ultimate Rock Concert (Question No 360)

Mr Stanhope asked the Chief Minister, upon notice, on 1 May 2001:

1) Is there a dispute between the Government or any of its agencies including Bruce Operations Pty Ltd, the Stadiums Authority and the insurers of the Ultimate Rock Concert.

2) What is the nature of the dispute.

3) Is the Government or any of its agencies including Bruce Operations Pty Ltd or the Stadiums Authority legally represented in this dispute.

4) If so, who is representing the government and how much has been expended on legal fees in pursuing the dispute.

5) Has the Government's claim against the promoter or insurers been settled.

6) If so, when was the claim settled and for how much.

7) Has the reconciliation statement required under the contract between the parties been completed and if so, when was it completed and could a copy be provided.

8) What costs have been incurred by the Government or any of its agencies, including Bruce Operations Pty Ltd or the Stadiums Authority, in pursuing the claim against the promoter or insurers.

9) Could a breakdown of all the costs be provided.

10)What has been the Government' total expenditure on the Ultimate Rock Concert to this date.

Mr Humphries: The answer to the member's question is as follows:

1. & 2. Bruce Operations Pty Ltd (BOPL) sustained a loss from the cancellation of the Ultimate Rock Symphony. BOPL sought indemnity from the Broker, Loss Adjuster and the Insurer. To date BOPL has not been successful in obtaining an insurance pay out to cover the loss.

The factual and legal circumstances that apply in this matter are complex and resolution has been made more complicated due to the fact that the Insurers are London based. Demand has been made of the Insurers and a response is awaited from the lead underwriter.

3. BOPL is represented by Minter Ellison.

4. Since the cancellation of the concert, BOPL has paid a total of $44,236.80 in legal fees and disbursements as it has pursued resolution of this matter. It has received invoices for a further $9,388.50.

5. No

6. Not applicable

7. No final reconciliation statement has been provided to BOPL or the Government. BOPL received an unsigned draft audit report which was commissioned by Minter Ellison on BOPL's behalf. A number of associated issues have been left in abeyance to avoid expenditure which might be unnecessary. I am advised that BOPL is reluctant to provide details of the draft audit statement, particularly if by this process it becomes a public document, until the possibility of litigation is removed.

8. See 4 above

9. Of the amounts shown in 4. above, $47,113.30 is direct legal fees and disbursements and $6,512 is the payment for the draft audit of the rock concert expenses.

10. The only expenditure to date has been by BOPL. BOPL's expenditure on the concert, including its initial contribution and the legal fees and disbursements totals $246,358.14

Lookback program and financial assistance scheme (Question No 361)

Mr Stanhope asked the Minister for Health, Housing and Community Services, upon notice, on 1 May 2001:

In relation to the Hepatitis C Lookback Program and Financial Assistance Scheme:

(1) What is the role of the ACT Government Solicitor in the Financial Assistance Scheme.

(2) Are the applicants referred to the Financial Assistance Scheme represented by law firms and if so, what firms are representing the applicants.

(3) What is the total amount that has been paid to applicants under the Financial Assistance Scheme for:
(a) damages;
(b) medical expenses; and
(c) legal costs.

(4) What is (a) the largest amount paid and (b) the smallest amount paid.

(5) How will disclosure of the amounts paid, without any reference to personal information about applicants, adversely affect the privacy of the applicants.

(6) How will the Government disclose the amounts claimed and paid under the Financial Assistance Scheme if the final number of cases settled is fewer than 20 cases.

(7) What is the total amount paid to the families or dependents of the deceased persons for:
(a) damages;
(b) medical expenses;
(c) legal costs; and
(d) funeral expenses.

Mr Moore: The answer to the member's question is:

In relation to the Hepatitis C Lookback Program and Financial Assistance Scheme:

There is a need to preface a response to these questions with a brief recap of some of the more outstanding issues surrounding the Hepatitis C Lookback program. I am sure you are aware of the extreme sensitivity surrounding these investigations. The impact of Hepatitis C on its sufferers is all consuming; even in the early stages when people may still be symptom free, the emotional and psychosocial ramifications of the disease are enormous.

There is often a perception that all those who have hepatitis C infection are intravenous drug users and this is a stigma that these people have to live with for the rest of their lives. This stigma can often make it difficult for sufferers to access the type of ongoing care and assistance they may require. It also often deprives them of

the opportunity to discuss or share their problems with friends or families because they are reluctant to even have people know that they have the disease.

It is, therefore, incumbent on those conducting the Lookback program to guard the privacy of the participants zealously. It is for this reason that there are numerous measures and requirements noted in the Financial Assistance Agreement that prevent details about settlements being revealed for fear that such details may adversely impact on the privacy of recipients.

It is against this background information that I would like to respond to your questions.

(1) The role of the Government Solicitor in the Financial Assistance Scheme is to represent the Government in negotiations with the Australian Red Cross Blood Transfusion Service, applicants and their legal representatives. The Government Solicitor also strives to facilitate the process of providing financial assistance to persons suffering from HCV as a result of receiving a contaminated blood transfusion. The Government Solicitor has played a pivotal role in protecting the interests of the Government and the participants in the scheme and continues to provide accurate and timely advice in relation to the program.

(2) The applicants referred to the Financial Assistance Scheme all have legal representation. One firm is representing the majority of claimants but applicants are free to seek representation with any firm and a number have chosen to do so. I am concerned that revealing the details of legal arrangements may be inappropriate since they are confidential agreements between applicants and their legal representatives. It would be necessary to seek an individual's consent before revealing this information to you. I would like to stress, however, that everything possible has been done to ensure that these people do have adequate legal representation and that their interests are being protected.

(3) The Government provided $4.5 million in 2000/01 and a further $1.3 million in 2001/02 for the Hepatitis C Lookback and Financial Assistance Scheme. As a result of the process of assessing settlement amounts for each applicant, estimates for payments in 2000/01 have been scaled back to under $1.0 million. The 2001/02 Budget Papers (Budget Paper No.4 Page 113) reflect the change. At this point the Department has not estimated expenditure in excess of the $1.3 million available in 2001/02 and will deal with costs in excess of the appropriated amount on an emerging cost basis.

(4) Canberra is a small town and it is not inconceivable that recipients of financial assistance could be identified based on settlement details. Even revealing the largest and smallest amounts paid may be enough to compromise privacy for those involved and, in the interests of protecting the privacy of recipients, it would be very difficult to reveal even such broad details.

(5) The risk of adversely affecting the privacy of applicants remains great, even if personal information about applicants were to be withheld. It is for this reason that there is some reluctance to publicly release any details of settlement amounts at all.

(6) It has been agreed that information in regard to the number of settlements and the quantum of settlements will not be presented to the Assembly until such time as a minimum of twenty cases have been settled. Again, this is to protect the privacy of

the individuals concerned. If, as currently appears likely, the final number of cases settled is fewer than 20, there may be a need for further discussion within the Assembly to determine the best way to report on the disbursement of settlements without compromising the privacy of recipients.

(7) The Financial Assistance Scheme is designed to assist and support people who have developed hepatitis C through a contaminated blood transfusion. Assistance is offered in recognition of the impact of the disease on recipients and in an attempt to compensate for the past inability to recognise and prevent the possibility of transmission of hepatitis C through blood transfusion. There is no provision in the scheme to provide financial assistance to the families or dependents of deceased persons affected by hepatitis C.

Canberra Hospital implosion (Question No 362)

Mr Stanhope asked the Chief Minister, upon notice, on 1 May 2001:

In relation to claims against the Government arising out of the hospital implosion:

(1) Who is the Government's insurer.

(2) What coverage did the Government and its agencies, including Totalcare, have an relation to the implosion.

(3) What premium did the Government pay for this coverage.

(4) Is the Government's insurer denying liability under the policy or policies held by the Government.

(5) What has it cost the Government and its agencies, including Totalcare, in legal expenses to defend the claims made against it by (a) the Bender family and (b) by other persons claiming compensation.

(6) Is any person other than the Government, its agencies and Totalcare being sued for compensation by the Bender family or other claimants and if so, who is the other person(s).

(7) When will the claims against the Government for damages be settled or otherwise completed.

Mr Humphries: The answer to the member's question is as follows:

1) The Government's insurer is HIH Casualty and General Insurance.

2) Subject to the conditions, exclusions and excesses expressed in the policy the coverage of the Government and its agencies, including Totalcare, was in respect to all construction and contracting activities in relation to contracts awarded or managed by ACT Public Works and Services and/or agents of Public Works and Services for third party liability. This includes all sums which the Government and its agencies become legally obligated to pay including immediate medical and/or surgical aid, all expenses incurred with the permission of the insurer incidental to the investigation, negotiation, presentation and/or defence of claims and suits or appeals which are the subject of indemnity under the policy and all expenses awarded against the insured. The limit of this coverage is $10,000,000 for any one occurrence and any one project, unlimited in any one policy period.

Additionally, Totalcare holds Professional Indemnity insurance cover with GIO which indemnifies Totalcare against all sums liable to be paid as a result of a breach of duty by reason of any negligent act, error or omission committed or allegedly committed. The indemnity limit for this coverage is also $10,000,000 for any one occurrence.

3) The Government was not liable to pay the premium directly. The arrangement was that each contractor with the Government or its agencies was required by the terms of the contract with the Government to pay a premium calculated on the basis of a fixed percentage of the contract value.

It is understood that Totalcare paid a premium of $110 836 for the 12 months.

4) Yes, the Government's insurer is denying liability.

5) As far as the Government is concerned the claims are being handled by the ACT Government Solicitor and no legal expenses have been incurred. Similarly, Totalcare is being represented by solicitors instructed by GIO, with all costs being met by GIO.

6) Yes. The Bender family and a number of other claimants have sued Project Co ordination (Australia) Pty Limited (the project manager), Cameron Dwyer (an employee of the project manager), City and Country Demolition Australia Pty Limited (the demolition contractor), Anthony Fenwick (an employee of City and Country Demolition Australia Pty Limited), Rod McCracken (the imploder) and Warick Lavers (a former Totalcare employee).

7) It is not known when this will occur as there are a number of matters (such as the provision of particulars relating to the claims) which are outstanding and which are beyond the control of the Government.

Belconnen and Mugga Lane landfills (Question No 364)

Ms Tucker asked the Minister for Urban Services, upon notice:

In relation to the contracting out of the management of the Belconnen and Mugga Lane landfills to Thiess:

1. How will the scavenging rights of Revolve be affected by the establishment of waste transfer stations at Mitchell and Mugga Lane.

2. How will the operations of Revolve be affected by the closure of the Belconnen Landfill to domestic waste.

3. What are the current arrangements regarding the siting of Revolve's buildings and storage yards at the landfills and how will the change to Thiess management impact on these arrangements.

4. What consultation has occurred with Revolve regarding these changes.

Mr Smyth: The answer to Ms Tucker's question is as follows:

1. At Mugga Lane the present scavenging arrangement will continue. Thiess Services intend to call Expressions of Interest for scavenging rights at Mitchell. Revolve will have the opportunity to submit a bid.

2. Revolve advise that they intend to continue their Belconnen operation after the landfill is closed to domestic waste. I am advised that around 70 per cent of their material comes from direct drop off.

3. Revolve currently occupy their sites under a licence agreement with ACT Waste. The contract with Thiess includes the construction at Mugga Lane of 2,000m2 of enclosed building and 5,000m2 of secure yard. Revolve will occupy this new space as a sub-contractor to Thiess Services.

4. Extensive consultation with Revolve has occurred and they have initiated design changes which better suit their business.

Futsal slab
(Question Nos 365 and 366)

Ms Tucker asked the Minister for Education and Attorney General, upon notice, on 2 May 2001:

In relation to the management of the Futsal slab in Acton Park:

(1) Has the Government entered into an agreement with any organisation to manage this facility.
(2) What is the name of the organisation.
(3) When was the agreement entered into and when will it expire.
(4) What tender process was followed in making the agreement.
(5) What services are provided by the organisation under the agreement.
(6) What payments are made to the organisation for these services.
(7) What events or activities have been arranged for the Futsal slab since its construction, and what payments have been received for use of the facility.

Mr Stefaniak: The answers to Ms Tucker's questions are:

(1) Yes.
(2) The YMCA of Canberra Inc and ACTSPORT operating as the Lakeside Arena Management Group.
(3) A memorandum of understanding covering the management function was signed in November 1997. The term of the initial memorandum of understanding was initially established until 31 December 1998, then extended until 31 December 1999 or until such time as an alternative agreement was determined. A new agreement is expected to be signed shortly.
(4) The YMCA of Canberra was approached to manage the facility as a noncommercial community-based organisation with an interest in and capacity for managing this type of community facility.
(5) The identification of events and activities that can be successfully accommodated at the Lakeside Arena, and handling the on-ground event management aspects of these activities. These include liaison with promoters and organisers, National Capital Authority for works approvals, and other government agencies, to ensure the smooth conduct of events.
(6) A daily hiring fee is charged by the YMCA and retained by it. The fee covers the expenses incurred by the YMCA in managing the event.

(7) A list of formal events and activities and the revenue received is as follows:

Date	Event	Fees
1996 September	Four Nations Futsal Tournament	Nil -event run directly by Futsal.*
October	In-line skate tournament	Nil*
1997 January	Woodforde/Woodbridge tennis exhibition	Nil - event run directly by Tennis ACT*
March	Triathlon Association	Nil*
April/May	Dance Week activities	Nil*
October	In-line skate tournament	Nil*
October	Australian Masters Games	Nil - event run directly by Masters Games*
November	Australian/New Zealand Police Games	Nil - event run directly by Police Games*
1998 June	Moscow Circus	$9,000
1999 September	Silver's Circus	$2,000
2000 April	Cats	$16,500
October	Compaq Design Troupe	$3,750
March – Feb (2001)	Virgin Helicopters	$2,500

In addition to the formal uses, there is considerable informal use by people such as in-line skaters and unicylists.

* Event hosted prior to the Memorandum of Understanding being signed.

Licensed clubs
(Question No 367)

Ms Tucker asked the Attorney General, upon notice, on 1 May 2001:

In relation to club licences granted under the *Liquor Act 1975*:

(1) Could a current list of the club licences granted under the *Liquor Act 1975*: be provided showing:

(a) the street address or the block and section number of the club;
(b) the name and registered address of the community organisation which holds the licence; and
(c) the date the licence was issued.

Mr Stefaniak: The answer to Ms Tucker's questions is as follows:

The attached listing contains the relevant particulars for the licensed clubs registered under the Liquor Act 1975 as at 3 May 2001.

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name ACT LAWN TENNIS ASSOC. INC.

Premises Address SOUTHWELL PARK
ELLENBOROUGH STREET
LYNEHAM 2602

Block 805 Section Division LYNEHAM
Licensee Name A.C.T. TENNIS ASSOCIATION INCORPORATED
Licensee Address SOUTHWELL PARK
ELLENBOROUGH STREET
LYNEHAM 2602

Date of issue 01/11 /75

Trading Name ACT RUGBY UNION CLUB INC, THE

Premises Address BLACKALL STREET
BARTON ACT 2600

Block 5 Section 6 Division BARTON
Licensee Name THE AUSTRALIAN CAPITAL TERRITORY RUGBY UNION CLUB INC
Licensee Address BLACKALL STREET
BARTON ACT

Date of issue 01/11/75

Trading Name AINSLIE FOOTBALL & SOCIAL CLUB INC
Premises Address WAKEFIELD AVENUE
AINSLIE 2602

Block 8 Section 26 Division AINSLIE
Licensee Name AINSLIE FOOTBALL & SOCIAL CLUB INC
Licensee Address WAKEFIELD AVENUE
AINSLIE 2602

Date of issue 24/09/91
Trading Name AKUNA CLUB LIMITED

Premises Address BASEMENT LEVEL
G.I.O. HOUSE
AKUNA STREET
CANBERRA CITY ACT 2601
Block 4 Section 13 Division CANBERRA

Licensee Name AKUNA CLUB LIMITED
Licensee Address C/- DELLAVEDOVA HOLLANDS BEARD & CO
17 BARRY DRIVE
TURNER ACT 2601

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11 /75
Trading Name AUSTRALIA CROATIAN CLUB LTD, THE
Premises Address DAVID & MCCAUGHEY STREET
O'CONNOR ACT 2601

Block 5 Section 67 Division TURNER
Licensee Name THE AUSTRALIA CROATIAN CLUB LIMITED
Licensee address 4TH FLOOR
NATIONAL MUTUAL CENTRE
UNIVERSITY AVENUE
CANBERRA CITY 2601

Date of issue 04/07/79
Trading Name AUSTRIAN-AUSTRALIAN CLUB INC
Premises Address 5 MOUNTEVANS STREET
MAWSON ACT 2607

Block 4 Section 57 Division MAWSON
Licensee Name AUSTRIAN AUSTRALIAN CLUB INC
Licensee Address 57 MOUNTEVANS STREET
MAWSON 2607

Date of issue 18/11/75
Trading Name BELCONNEN BOWLING CLUB INC
Premises Address BEETALOO STREET
HAWKER ACT 2614

Block 1 Section 3 Division HAWKER
Licensee Name BELCONNEN BOWLING CLUB INC
Licensee Address BEETALOO & WALHALLOW STS
HAWKER 2614

Date of issue 10/08/78
Trading Name BELCONNEN MAGPIES SPORTS CLUB INCORPORATED
Premises Address HARDWICK CRESCENT
KIPPAX ACT 2615

Block 25 Section 51 Division HOLT
Licensee Name BELCONNEN MAGPIES SPORTS CLUB INCORPORATED
Licensee Address 76-80 HARDWICK CRESCENT
KIPPAX ACT 2615

ACT Licensed Clubs as at 3 May 2001

Date of issue 06/11/98
Trading Name BELCONNEN SOCCER CENTRE
Premises Address 5 WALKLEY PLACE
MCKELLAR ACT 2617

Block 14 Section 71 Division MCKELLAR
Licensee Name BELCONNEN SOCCER CLUB INC
Licensee Address CNR SPRINGVALE DRIVE AND
BELCONNEN WAY
HAWKER ACT

Date of issue 15/08/80
Trading Name BELCONNEN SOCCER CLUB
Premises Address UNIT 4 & 5 UNITS PLAN 539
HAWKER PLACE
HAWKER 2614

Block 13 Section 33 Division HAWKER
Licensee Name BELCONNEN SOCCER CLUB INC
Licensee Address CNR BELCONNEN WAY AND
SPRINGVALE DRIVE
HAWKER ACT 2614

Date of issue 01/11/75

Trading Name BRUMBIES SPORTS AND SOCIAL CLUB
Premises Address AUSTIN STREET
GRIFFITH ACT 2603

Block 3 Section 42 Division GRIFFITH
Licensee Name THE CANBERRA ROYALS RUGBY FOOTBALL CLUB INCORPORATED
Licensee Address 1 LIARDET STREET
WESTON 2611

Date of issue 01/12/89

Trading Name CANBERRA BOWLING CLUB INC
Premises Address NATIONAL CIRCUIT
FORREST ACT 2603

Block Section 12 Division FORREST
Licensee Name CANBERRA BOWLING CLUB INC
Licensee Address HOBART AVENUE
FORREST ACT 2603

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name CANBERRA CITY BOWLING CLUB INC
Premises Address ELDER STREET
BRADDON ACT 2601

Block 16 Section 25 Division BRADDON
Licensee Name CANBERRA CITY BOWLING CLUB INC
Licensee Address ELDER STREET
BRADDON ACT 2601

Date of issue 01/11/75
Trading Name CANBERRA CLUB LTD
Premises Address 45 WEST ROW
CANBERRA CITY ACT 2601

Block 3 Section 2 Division CANBERRA
Licensee Name CANBERRA CLUB LIMITED
Licensee Address 45 WEST ROW
CANBERRA CITY 2601

Date of issue 10/06/88
Trading Name CANBERRA & DISTRICT BOCCE CLUB INCORPORATED
Premises Address BALDWIN DRIVE
KALEEN ACT 2617

Block 20 Section 117 Division KALEEN
Licensee Name CANBERRA & DISTRICT BOCCE CLUB INC
Licensee Address 110 BALDWIN DRIVE
KALEEN ACT 2617

Date of issue 04/03/91
Trading Name CANBERRA GREYHOUND RACING CLUB
Premises Address JERRABOMBERRA AVENUE
SYMONSTON ACT 2609

Block 2 Section 107 Division SYMONSTON
Licensee Name CANBERRA GREYHOUND RACING CLUB INC
Licensee Address JERRABOMBERRA AVENUE
SYMONSTON 2609

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name CANBERRA HIGHLAND SOCIETY & BURNS CLUB Premises Address KETT STREET
KAMBAH 2902

Block 32 Section 346 Division KAMBAH
Licensee Name CANBERRA HIGHLAND SOCIETY & BURNS CLUB INC
Licensee Address KETT STREET
KAMBAH 2902

Date of issue 05/11/82
Trading Name CANBERRA IRISH CLUB INCORPORATED
Premises Address 6 PARKINSON STREET
WESTON ACT 2611

Block 3 Section 67 Division WESTON

Licensee Name CANBERRA IRISH CLUB INC
Licensee Address C/- J.S. O'CONNOR AND CO
SOLICITORS, ETHOS HOUSE
28 AINSLIE AVENUE
CANBERRA CITY ACT 2601

Date of issue 07/12/79
Trading Name CANBERRA LABOR CLUB LTD
Premises Address CHANDLER STREET
BELCONNEN ACT 2617

Block 1 Section 48 Division BELCONNEN
Licensee Name CANBERRA LABOR CLUB LIMITED
Licensee Address CHANDLER STREET
BELCONNEN ACT 2617

Date of issue 01/11/75
Trading Name CANBERRA NORTH BOWLING CLUB INC
Premises Address MACAUGHEY STREET
TURNER ACT 2612

Block 2 Section 66 Division TURNER
Licensee Name CANBERRA NORTH BOWLING CLUB INC
Licensee Address MCCAUGHEY STREET
TURNER ACT 2601

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name CANBERRA R.S.L MEMORIAL AND CITIZENS CLUB LTD
Premises Address 13B MOORE STREET
CANBERRA CITY 2601

Block 7 Section 23 Division CANBERRA
Licensee Name CANBERRA R.S.L. MEMORIAL & CITIZENS CLUB LTD
Licensee Address CNR MOORE & RUDD STREET
CANBERRA CITY 2601

Date of issue 21/04/99
Trading Name CANBERRA RAIDERS SPORTS CLUB
Premises Address 23 HIBBERSON STREET
GUNGAHLIN ACT 2912

Block 1 Section 8 Division GUNGAHLIN
Licensee Name CANBERRA RAIDERS SPORTS CLUB LIMITED
Licensee Address 23 HIBBERSON STREET
GUNGAHLIN ACT 2912

Date of issue 08/09/93
Trading Name CANBERRA RIFLE CLUB INCORPORATED
Premises Address MCINTOSH RIFLE RANGE
MAJURA ROAD
MAJURA ACT

Block 560 Section Division MAJURA
Licensee Name CANBERRA RIFLE CLUB INCORPORATED
Licensee Address MCINTOSH RIFLE RANGE
MAJURA ROAD
MAJURA

Date of issue 19/12/77
Trading Name CANBERRA ROYALS RUGBY FOOTBALL CLUB INC
Premises Address 1 LIARDET STREET
WESTON ACT 2611

Block 1 Section 66 Division WESTON
Licensee Name CANBERRA ROYALS RUGBY FOOTBALL CLUB INC
Licensee Address 1 LIARDET STREET
WESTON 2611

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name CANBERRA SERVICES CLUB
Premises Address MANUKA CIRCLE
MANUKA ACT 2603

Block 1 Section 15 Division GRIFFITH
Licensee Name CANBERRA SERVICES CLUB INC
Licensee Address CNR CANBERRA AVENUE AND
MANUKA CIRCLE
MANUKA ACT 2602

Date of issue 01/11/75
Trading Name CANBERRA SOUTHERN CROSS CLUB LTD Premises Address CARINYA STREET
PHILLIP ACT 2606

Block 2 Section 18 Division PHILLIP
Licensee Name CANBERRA SOUTHERN CROSS CLUB LTD
Licensee Address DELOITTE ROSS TOHMATSU
60 MARCUS CLARKE STREET
CANBERRA CITY ACT 2601

Date of issue 01/11/75
Trading Name CANBERRA TRADESMENS UNION CLUB INC Premises Address 2 BADHAM STREET
DICKSON ACT 2602

Block 5 Section 34 Division DICKSON
Licensee Name CANBERRA TRADESMEN'S UNION CLUB INC
Licensee Address 2 BADHAM STREET
DICKSON ACT 2602

Date of issue 01/11/75
Trading Name CANBERRA WINE AND FOOD CLUB INC
Premises Address 13 FITZROY STREET
FORREST ACT 2603

Block 9 Section 34 Division FORREST
Licensee Name CANBERRA WINE AND FOOD CLUB INC
Licensee Address 13 FITZROY STREET
FORREST 2603

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name CANBERRA WORKERS CLUB
Premises Address CHILDERS STREET
CANBERRA CITY ACT 2601

Block 1 Section 4 Division CANBERRA
Licensee Name CANBERRA LABOR CLUB LIMITED
Licensee Address BLOCK 10 CHANDLER STREET
BELCONNEN ACT

Date of issue 01/12/89
Trading Name CAPITAL GOLF CLUB INC
Premises Address JERRABOMBERRA AVENUE
NARRABUNDAH ACT 2603

Block 500 Section Division NARRABUNDAH
Licensee Name CAPITAL GOLF CLUB LTD
Licensee Address C/- HARDWICKE WIGHAM & DRIVER
6 PHIPPS PLACE
DEAKIN ACT 2600

Date of issue 21/06/89
Trading Name CHISHOLM SPORTS CLUB
Premises Address BENHAM STREET
CHISHOLM ACT 2905

Block 12 Section 575 Division CHISHOLM
Licensee Name TUGGERANONG VALLEY RUGBY UNION AND AMATEUR SPORTS CLUB INC
Licensee Address 6 RICARDO STREET
WANNIASSA ACT 2903

Date of issue 02/12/77
Trading Name CITY CLUB, THE
Premises Address LOWER GROUND FLOOR
GAREMA CENTRE
BUNDA STREET
CANBERRA CITY
Block 2 Section 47 Division CANBERRA
Licensee Name SOCCER CLUB OF CANBERRA LTD
Licensee Address c/- HOUSTON & HANNA
SUITE 15 GEORGE TURNER OFFICE
11 Mc KAY GARDENS TURNER A.C.T. 2601
G.P.O. BOX 810 CANBERRA CITY 2601

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/12/89
Trading Name COMMONWEALTH CLUB LIMITED, THE
Premises Address FORSTER CRESCENT
YARRALUMLA ACT 2600

Block 4 Section 44 Division YARRALUMLA
Licensee Name THE COMMONWEALTH CLUB LIMITED
Licensee Address FORSTER CRESCENT
YARRALUMLA ACT 2600

Date of issue 18/02/97
Trading Name COOLABAH CLUB
Premises Address GEORGINA CRESCENT
KALEEN ACT

Block 13 Section 88 Division KALEEN
Licensee Name COOLABAH CLUB LIMITED
Licensee Address GEORGINA CRESCENT
KALEEN ACT

Date of issue 01/11/75
Trading Name CROATIA DEAKIN SOCCER CLUB INC
Premises Address GROSE STREET
DEAKIN ACT 2600

Block 11 Section 12 Division DEAKIN
Licensee Name CROATIA DEAKIN SOCCER CLUB INC
Licensee Address GROSE STREET
DEAKIN 2600

Date of issue 01/12/88
Trading Name DOWNER CLUB, THE
Premises Address HAWDON STREET
DICKSON ACT 2602

Block 2 Section 72 DivisionDICKSON
Licensee Name CANBERRA TRADESMEN'S UNION CLUB INC
Licensee Address 2 BADHAM STREET
DICKSON ACT 2602

ACT Licensed Clubs as at 3 May 2001

Date of issue 09/12/75
Trading Name EASTERN SUBURBS RUGBY UNION AND AMATEUR SPORTS CLUB INC
Premises Address 6 OXLEY STREET
GRIFFITH ACT 2603

Block 7 Section 18 Division GRIFFITH
Licensee Name EASTERN SUBURBS RUGBY UNION & AMATEUR SPORTS CLUB INC
Licensee Address 6 OXLEY STREET
GRIFFITH ACT 2603

Date of issue 01/11/75
Trading Name EASTLAKE FOOTBALL CLUB INC
Premises Address OXLEY STREET
GRIFFITH ACT 2603

Block 4 Section 19 Division GRIFFITH
Licensee Name EASTLAKE FOOTBALL CLUB INC
Licensee Address OXLEY STREET
GRIFFITH 2602

Date of issue 01/11/75
Trading Name FEDERAL GOLF CLUB
Premises Address RED HILL LOOKOUT ROAD
RED HILL 2603

Block 309 Section Division RED HILL
Licensee Name FEDERAL GOLF CLUB LTD
Licensee Address RED HILL ROAD
RED HILL 2603

Date of issue 22/05/91
Trading Name FYSHWICK SPORTS & SOCIAL CLUB INCORPORATED
Premises Address 8-10 TOWNSVILLE STREET
FYSHWICK ACT

Block 24 Section 32 Division FYSHWICK
Licensee Name FYSHWICK SPORTS & SOCIAL CLUB INCORPORATED
Licensee Address 8-10 TOWNSVILLE STREET
FYSHWICK ACT

ACT Licensed Clubs as at 3 May 2001

Date of issue 25/07/97
Trading Name GINNINDERRA LABOR CLUB
Premises Address CHARNWOOD PLACE
CHARNWOOD ACT 2615

Block 3 Section 95 Division CHARNWOOD
Licensee Name CANBERRA LABOR CLUB LTD
Licensee Address CHANDLER STREET
BELCONNEN ACT 2617

Date of issue 20/12/96
Trading Name GUNGAHLIN LAKES GOLF AND COMMUNITY CLUB
Premises Address CNR GUNGAHLIN DRIVE
AND GUNDAROO DRIVE
NICHOLLS

Block 2 Section 84 Division NICHOLLS
Licensee Name AINSLIE FOOTBALL & SOCIAL CLUB INCORPORATED
Licensee Address WAKEFIELD AVENUE
AINSLIE 2602

Date of issue 01/11/75
Trading Name HARMONIE GERMAN CLUB CANBERRA INC
Premises Address JERRABOMBERRA AVENUE
NARRABUNDAH 2604

Block 2 Section 34 Division NARRABUNDAH
Licensee Name HARMONIE GERMAN CLUB CANBERRA INC
Licensee Address JERRABOMBERRA AVENUE
NARRABUNDAH 2604

Date of issue 23/02/79
Trading Name HELLENIC CLUB OF CANBERRA LTD
Premises Address CNR LAUNCESTON &
CALLAM STREETS
PHILLIP ACT 2606

Block 4 Section 6 Division PHILLIP
Licensee Name HELLENIC CLUB OF CANBERRA LIMITED
Licensee Address D. CALLAGHAN & ASSOCIATES
UNIT 2, DMA PROFESSIONAL OFFICES
LATHLAIN STREET
BELCONNEN TOWN CENTRE 2617

ACT Licensed Clubs as at 3 May 2001

Date of issue 21/02/90
Trading Name HOCKEY CENTRE, THE
Premises Address MOUATT STREET
LYNEHAM ACT 2602

Block 20 Section 59 Division LYNEHAM
Licensee Name THE HOCKEY CENTRE INC
Licensee Address MOUATT STREET
LYNEHAM ACT 2602

Date of issue 01/11/75
Trading Name HUNGARIAN AUSTRALIAN CLUB LTD
Premises Address KOOTARA CRESCENT
NARRABUNDAH 2604

Block 2 Section 124 Division NARRABUNDAH
Licensee Name HUNGARIAN AUSTRALIAN CLUB LTD
Licensee Address C/- ERNST & YOUNG
54 MARCUS CLARKE STREET
CANBERRA ACT 2601

Date of issue 01/11/75
Trading Name ITALO AUSTRALIAN CLUB INC
Premises Address 78 FRANKLIN STREET
FORREST ACT 2603

Block 1 Section 19 Division FORREST
Licensee Name ITALO AUSTRALIAN CLUB INC
Licensee Address 78 FRANKLIN STREET
FORREST 2603

Date of issue 27/11/95
Trading Name LANYON VALLEY RUGBY UNION & AMATEUR SPORTS CLUB
Premises Address HEIDELBERG STREET
CONDER ACT 2906

Block 12 Section 211 Division CONDER
Licensee Name TUGGERANONG VALLEY RUGBY UNION AND AMATEUR SPORTS CLUB INC
Licensee Address 6 RICARDO STREET
WANNIASSA ACT 2903

ACT Licensed Clubs as at 3 May 2001

Date of issue 20/06/91
Trading Name MERIDIAN CLUB, THE
Premises Address 34 MORT ST
BRADDON 2601

Block 2 Section 28 Division BRADDON
Licensee Name THE MERIDIAN CLUB INC
Licensee Address 34 MORT STREET
BRADDON ACT 2601

Date of issue 14/12/90
Trading Name MURRUMBIDGEE COUNTRY CLUB INC
Premises Address KAMBAH POOL ROAD
KAMBAH ACT 2902

Block 2 Section 7 Division KAMBAH
Licensee Name MURRUMBIDGEE COUNTRY CLUB INC
Licensee Address KAMBAH POOL ROAD
KAMBAH 2902

Date of issue 21/05/76
Trading Name NATIONAL PRESS CLUB
Premises Address 16 NATIONAL CIRCUIT
BARTON ACT 2600

Block 2 Section 23 Division BARTON
Licensee Name NATIONAL PRESS CLUB INC
Licensee Address 16 NATIONAL CIRCUIT
BARTON 2600

Date of issue 11/05/89
Trading Name RAIDERS LEAGUES CLUB SOUTHSIDE
Premises Address 10 HEARD STREET
MAWSON ACT 2607

Block 2 Section 57 Division MAWSON
Licensee Name CANBERRA RAIDERS LEAGUES CLUB (SOUTHSIDE) LIMITED
Licensee Address 10 HEARD STREET
MAWSON ACT 2607

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name ROYAL CANBERRA GOLF CLUB
Premises Address WESTBOURNE WOODS
YARRALUMLA ACT 2600

Block 447 Section Division YARRALUMLA
Licensee Name ROYAL CANBERRA GOLF CLUB LTD
Licensee Address WESTBOURNE WOODS
YARRALUMLA 2600

Date of issue 16/01/81
Trading Name SERBIAN CULTURAL CLUB "ST.SAVA" INC Premises Address HEARD STREET
MAWSON 2607

Block 5 Section 57 Division MAWSON
Licensee Name SERBIAN CULTURAL CLUB ST SAVA INC
Licensee Address 98 MAWSON DRIVE
MAWSON ACT 2607

Date of issue 09/12/86
Trading Name SERBIAN-AUSTRALIAN SETTLERS SOCIAL AND CULTURAL CENTRE
Premises Address 2 LIARDETT STREET
WESTON ACT 2611

Block 2 Section 62 Division WESTON
Licensee Name SERBIAN-AUSTRALIAN SETTLERS SOCIAL AND CULTURAL CENTRE
Licensee Address 2 LIARDETT STREET
WESTON 2611

Date of issue 01/11/75
Trading Name SLOVENIAN-AUSTRALIAN ASSOCIATION
Premises Address 19 IRVING STREET
PHILLIP ACT 2606

Block 4 Section 23 Division PHILLIP
Licensee Name SLOVENIAN-AUSTRALIAN ASSOCIATION OF CANBERRA INC
Licensee Address 19 IRVING STREET
PHILLIP ACT 2606

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/12/98
Trading Name SOUTH PACIFIC RUGBY CLUB INC
Premises Address 22-32 EAST ROW
BASEMENT LEVEL
CANBERRA ACT 2601

Block 2 & 5 Section 15 Division CANBERRA
Licensee Name SOUTH PACIFIC RUGBY CLUB INC
Licensee Address 22-32 EAST ROW
BASEMENT LEVEL
CIVIC ACT 2601

Date of issue 15/12/97
Trading Name SOUTHERN CROSS CLUB TUGGERANONG
Premises Address CNR PITMAN AND SCOLLAY STREETS
GREENWAY ACT

Block 8 Section 15 Division GREENWAY
Licensee Name CANBERRA SOUTHERN CROSS CLUB LTD
Licensee Address DELOITTE ROSS TOHMATSU
60 MARCUS CLARKE STREET
CANBERRA ACT 2601

Date of issue 01/11/75
Trading Name SOUTHERN CROSS CLUB YACHT CLUB
Premises Address CORONATION DRIVE
LOTUS BAY
YARRALUMLA ACT 2600

Block 1 Section 42 Division YARRALUMLA
Licensee Name CANBERRA SOUTHERN CROSS CLUB LIMITED
Licensee Address DELOITTE ROSS TOHMATSU
60 MARCUS CLARKE STREET
CANBERRA CITY ACT 2601

Date of issue 05/07/96
Trading Name SOUTHLANDS SPORTS CLUB LTD
Premises Address CNR MOUNTEVANS &
HEARD STREETS
MAWSON ACT

Block 1 Section 57 Division MAWSON
Licensee Name SOUTHLANDS SPORTS CLUB LTD
Licensee Address CNR MOUNTEVANS &
HEARD STREETS
MAWSON ACT

ACT Licensed Clubs as at 3 May 2001

Date of issue 06/06/85
Trading Name SPANISH AUSTRALIAN CLUB OF CANBERRA (ACT) INC
Premises Address NAPURAI STREET
NARRABUNDAH ACT 2604

Block 4 Section 34 Division NARRABUNDAH
Licensee Name SPANISH AUSTRALIAN CLUB OF CANBERRA ACT INC
Licensee Address 5 NARUPAI STREET
NARRABUNDAH 2604

Date of issue 04/03/80
Trading Name THE BRADDON CLUB
Premises Address 1 DONALDSON STREET
BRADDON ACT 2601

Block 1 Section 30 Division BRADDON
Licensee Name A.C.T. LEAGUES CLUB LTD
Licensee Address CNR DONALDSON AND TORRENS STREET
BRADDON ACT 2601

Date of issue 18/10/90
Trading Name THE SPORTS CLUB KALEEN
Premises Address 16 GEORGINA CRESCENT
KALEEN ACT 2617

Block 4 Section 89 Division KALEEN
Licensee Name ACT PUBLIC SERVICE SPORTS CLUB INC
Licensee Address 16 GEORGINA CRESCENT
KALEEN ACT 2617

Date of issue 23/11/94
Trading Name TOWN CENTRE SPORTS CLUB
Premises Address ROWLAND REES CRESCENT
GREENWAY ACT 2900

Block 3 Section 46 Division GREENWAY
Licensee Name TUGGERANONG VALLEY RUGBY UNION AND AMATEUR SPORTS CLUB
Licensee Address PO BOX 48
ERINDALE ACT 2903

ACT Licensed Clubs as at 3 May 2001

Date of issue 26/08/91
Trading Name TUGGERANONG UNITED LEAGUES CLUB INCORPORATED
Premises Address 236-242 COWLISHAW STREET
GREENWAY ACT 2905

Block 10 Section 19 Division GREENWAY
Licensee Name TUGGERANONG UNITED LEAGUES CLUB INC
Licensee Address 236-242 COWLISHAW STREET
GREENWAY ACT 2905

Date of issue 10/12/79
Trading Name TUGGERANONG VALLEY RUGBY UNION & AMATEUR SPORTS CLUB INC
Premises Address 6 RICARDO STREET
WANNIASSA ACT 2903

Block 4 Section 126 Division WANNIASSA
Licensee Name TUGGERANONG VALLEY RUGBY UNION AND AMATEUR SPORTS CLUB INC
Licensee Address 6 RICARDO STREET
WANNIASSA 2903

Date of issue 15/02/79
Trading Name WEST BELCONNEN LEAGUES CLUB
Premises Address HARDWICK CRESCENT
HOLT ACT 2615

Block 38 Section 50 Division HOLT
Licensee Name WEST BELCONNEN RUGBY LEAGUE FOOTBALL CLUB INC
Licensee Address HARDWICK CRESCENT
HOLT ACT 2615

Date of issue 01/11/75
Trading Name WEST DEAKIN HELLENIC BOWLING CLUB INCORPORATED
Premises Address KENT STREET
DEAKIN ACT 2600

Block 1 Section 35 Division DEAKIN
Licensee Name WEST DEAKIN HELLENIC BOWLING CLUB INCORPORATED
Licensee Address KENT STREET
DEAKIN ACT 2600

ACT Licensed Clubs as at 3 May 2001

Date of issue 01/11/75
Trading Name WESTERN DISTRICT RUGBY UNION CLUB INC
Premises Address CNR CATCHPOLE AND
BOWMAN STREETS
MACQUARIE ACT 2614

Block 1 Section 49 Division MACQUARIE
Licensee Name WESTERN DISTRICT RUGBY UNION CLUB INC
Licensee Address CNR CATCHPOLE &
BOWMAN STREETS
MACQUARIE ACT 2614

Date of issue 08/01/81
Trading Name WESTON CREEK FOOTBALL CLUB INC
Premises Address FREMANTLE DRIVE
STIRLING ACT 2611

Block 5 Section 24 Division STIRLING
Licensee Name WESTON CREEK FOOTBALL CLUB INC
Licensee Address WESTON CREEK SPORTS CLUB
FREMANTLE DRIVE
STIRLING ACT 2611

Date of issue 01/12/89
Trading Name WHITE EAGLE CLUB INC
Premises Address 34 DAVID STREET
TURNER ACT 2601

Block 1 Section 67 Division TURNER
Licensee Name WHITE EAGLE CLUB INC
Licensee Address 34 DAVID STREET
TURNER 2601

Date of issue 01/11/75
Trading Name WODEN TRADESMENS UNION CLUB INC
Premises Address CNR LAUNCESTON AND
FURZER STREETS
PHILLIP ACT 2606

Block 1 Section 3 Division PHILLIP
Licensee Name WODEN TRADESMENS UNION CLUB INC
Licensee Address CNR LAUNCESTON & FURZER STREETS PHILLIP ACT 2606

ACT Licensed Clubs as at 3 May 2001

Date of issue 02/10/81
Trading Name WOODHAVEN GREEN GOLF CLUB INCORPORATED
Premises Address DRAKE BROCKMAN DRIVE
HOLT 2615

Block 1006 Section Division BELCONNEN
Licensee Name WOODHAVEN GREEN GOLF CLUB INCORPORATED
Licensee Address DRAKE-BROCKMAN DRIVE
HOLT ACT 2615

Date of issue 01/11/75
Trading Name YAMBA SPORTS CLUB
Premises Address IRVING STREET
PHILLIP 2606

Block 4 & 6 Section 24 Division PHILLIP
Licensee Name CANBERRA SOUTHERN CROSS CLUB LIMITED
Licensee Address DELOITTE ROSS TOHMATSU
60 MARCUS CLARKE STREET
CANBERRA CITY 2601

Date of issue 01/11/75
Trading Name YOWANI COUNTRY CLUB
Premises Address FEDERAL HIGHWAY
LYNEHAM ACT 2602

Block 352 Section Division LYNEHAM
Licensee Name YOWANI COUNTRY CLUB INC
Licensee Address FEDERAL HIGHWAY
LYNEHAM 2602

Concessional leases (Question No 368)

Ms Tucker asked the Minister for Urban Services, upon notice:

In relation to concessional leases granted under section 163 of the Land (Planning and Environment) Act 1991 in relation to sporting and recreational activities:

1. Could a current list of the leases granted be provided showing:

a. the block and section number
b. the name and registered address of the community organisation which holds the lease
c. the purpose for which the lease was granted
d. the date the lease was granted
e. which criteria under subsection 163(3) the lease was granted under.

Mr Smyth: The answer to the member's questions is as follows:

The leases which have been granted under section 163 of the Land (Planning and Environment) Act 1991 in relation to sporting and recreational activities are set out in Attachment A. The criteria under which these leases were granted are set out in Disallowable Instrument number 22 of 1992. A copy of that instrument is at Attachment B.

Attachment A

Block/Section/Division	Lessee	purpose	date of grant	criteria for grant
16/20 Greenway	Scout Association	Sea Scout Hall attached	06-Apr-93	See
20, 21 & 31/59 Lyneham	The Hockey Centre Incorporated	Block 20/ indoor sports hall Blocks 21 & 31/ sportsground	29-Apr-93	
4/167 Belconnen	Scout Association	Sea Scout	22-Apr-93	
1/87 Ainslie	YWCA	child care centre and community activity centre	10-May-93	
15/68 Deakin	Australian Capital Territory Touch Association Incorporated	Community activity centre incorporating sports administration offices meeting rooms and associated facilities	03-May-94	
5/18 Yarralumla	Canberra Church of England Girls' Grammar School	Acquatic Recreation Facility	11-Apr-94	
10/35 Bruce	Scout Association of Australia	Scout Hall	14-Jun-95	
15/149 Belconnen	Scout Association of Australia	community activity centre	24-Sep-96	
7/15 Greenway	ACT Basketball Incorporated	Indoor recreation facilities generally intended for the use of ACT	09-Dec-96	

22/65 Gilmore	Tuggeranong Pony Club Association Incorporated	outdoor recreation facility for equestrian purposed related to the operation of a pony club	07-Aug-97
7/46 Greenway	Australian Capital Territory Hockey Association Incorporated	outdoor recreation facility limited to hockey playing field and ancillary facilities	29-Apr-99
9/46 Greenway	Tuggeranong Dog Training Club Incorporated	club for dog training, dog trials and associated activities	31-May-99

Attachment B

AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991

DETERMINATION OF CRITERIA
FOR DIRECT GRANTS OF CROWN LEASES
NO (22) OF 1992

The ACT Executive under subsection 163(4) of the Land (Planning and Environment) Act 1991 determines criteria for the direct grant of a Crown lease for the purposes of COMMUNITY ORGANISATIONS. The criteria are:

The applicant:

must be incorporated;

must be a non-profit organisation;

must not hold a Club Licence under the Liquor Act 1975;

must complete and sign an application for the lease on the required form and provide evidence of incorporation and a copy of its "Articles of Association";

must be the proposed lessee or a satisfactory legal nexus between the applicant and the proposed lessee must be clearly demonstrated;

must, except where the applicant will occupy Territory-owned improvements:

- demonstrate to the Territory its financial capacity to develop and manage the land; and

- demonstrate to the Territory its nonfinancial capacity to develop and manage the land including details of expertise, resources and experience to undertake the proposal;

must, where the applicant will occupy Territoryowned improvements:

- demonstrate to the Territory its financial capacity to maintain and manage the land; and

- demonstrate to the Territory its nonfinancial capacity to maintain and manage the land including details of expertise, resources and experience to undertake the proposal;

- must have the support of the relevant Government agency/agencies;

- must have the support of the governing body of the applicant;

- must pay for the lease in accordance with the approved leasing policy for the particular type of community lease;

- must provide any Bank Undertaking required by the Territory;

- must, where the applicant proposes to establish a school, be a registered school under the Education Act 1937;

- must, where the applicant proposes to establish aged persons' accommodation, provide:

- evidence from the relevant Government agency/agencies that the application is an approved benevolent organisation; and

- details of the type of aged care proposed - (for example, nursing home, hostel or self-care units); and

- must pay the fees and charges for the time being notified by the Minister as being applicable.

Dated this 22nd day of Feb 1992

B Wood
MINISTER

Terry Connolly
MINISTER

Centenary of Federation and Canberra Day spectacular (Question No 369)

Mr Wood asked the Minister for Business, Tourism and the Arts, upon notice, on 2 May 2001:

In relation to the Centenary of Federation and Canberra Day spectacular:

(1) What was (a) the contracted cost and (b) the final cost.

Mr Smyth: The answer to the member's question is as follows:

a) The total contracted price was $950,000.
This was comprised of contract payments with Parker & Partner Pty Limited for $100,000 and a contract with Showcorp Production Services Pty Limited for $850,000.

b) The final cost of the event was $1,151,826.00 which is comprised of:

Total contract payments	$950,000.00
Agreed contract variation	$15,000.00
Additional costs outside contract	$66,215.00*
Marketing and promotion	$75,090.69
National television broadcast	$45,520.00
	$1;151,826.00

* Including artists accommodation and travel, VIP catering, transport, traffic control and site cleaning.

The National Council for Centenary of Federation provided $600,000 towards the ACT Centenary of Federation event.

In kind sponsorship support to the value of $187,529 was provided.

Motor vehicles—fog lights (Question No 370)

Mr Wood asked the Minister for Urban Services, upon notice:

In relation to fog lights:

(1) What rules exist in the ACT in relation to the use of fog lights, usually yellow.

(2) Are these rules policed.

(3) How many cars now fit as standard, white lights below the headlights.

(4) Are these white lights regarded as fog lights.

(5) Are these extra lights able to be used without restriction.

Mr Smyth: The answer to the member's questions is as follows:

(1) Fog lights are defined by the Australian Design Rules and by the dictionary to the Road Transport (Vehicle Registration) Regulations 2000 (the regulations). The fitting of fog lights to vehicles is prescribed by Schedule 1, Division 8.12 of the regulations. The Australian Road Rules restrict the use of rear fog lights and generally the use of lights to dazzle other road users. Rules 217 and 219 refer.

(2) Yes, these rules are policed by the Australian Federal Police, on-road vehicle inspectors and authorised inspection stations.

(3) It is not possible to estimate the number of vehicles that have standard fitted white lights below headlights. This will depend on manufacturers' discretion and choices made by consumers.

(4) White lights may be regarded as fog lights, providing they meet the relevant criteria regarding beam pattern, location and wiring in the Australian Design Rules and the Road Transport (Vehicle Registration) Regulations 2000.

(5) No. The legislation precludes the use of rear fog fights unless the driver is driving in fog or other hazardous weather conditions causing reduced visibility. The legislation also precludes the use of any light to dazzle another road user. Correctly mounted, aimed and wired fog lights should not dazzle other drivers.

In general terms, any light fitted to a vehicle that does not comply with the legislated requirements for fog lights, headlights, parking lights, daytime running lights, tail lights, brake lights, numberplate lights or indicator lights would be considered illegal and a defect notice may be issued.

Australian workplace agreements (Question No 371)

Mr Corbell asked the Chief Minister, upon notice, on 13 June 2001:

In relation to the use of Australian Workplace Agreements (AWAs) in the ACT Public Service:

(1) How many AWAs are in the ACT Public Service?

(2) What is the number of AWAs in each department or agency?

(3) What performance bonuses or special allowances have been provided in each AWA?

(4) What is the total cost of those bonuses?

(5) What rather particular benefits have been provided in each AV A beyond base salary?

(6) What is the total cost of those benefits?

Mr Humphries: The answer to the member's question is as follows:

AWAs have been used in a range of circumstances across the ACT Public Service to meet the requirements of specialist skill areas or more generally as an element in retention and attraction of staff. When I refer to the ACT Public Service, I am referring to staff employed under the *Public Sector Management Act 1994*.

Late last year, the Chief Executive of Chief Minister's Department issued an AWA framework for manager levels in the ACT Public Service. This framework recognises the market realities in providing high service standards across the ACT Public Service. It provides a consistent standard in settling remuneration, while recognising that operational requirements may require some fine-tuning at agency level by the Chief Executive.

As part of the arrangements for this framework, the Annual Report Directions for 2000-01 require that Chief Executives provide details of AWAs in their Annual Reports. This will include information on the number of staff covered by an AWA; the duration of the AWA; and the range of remuneration payable in the classifications for both collective and individual agreements.

I note that in the advice provided from the Department of Urban Services, a project completion bonus has been paid. As a form of performance bonus these payments fall outside the current AWA policy policy. However, I am sure this was based on a genuine misunderstanding and no further payments of this nature will be offered until the matter is resolved.

In providing this information, care has been taken to avoid identifying individuals. The availability of a framework for AWAs and the provision of non-identifying information provides an appropriate balance of transparency with the sound policy of protecting individual privacy.

The information provided in this answer is based on AWAs in place at 20 June 2001. The figures include valid AWAs approved by the Office of the Employment Advocate for public service staff as identified by agencies.

Approximately 55 AWAs are currently awaiting approval by the Office of the Employment Advocate. Any AWAs that were approved between the 20 June 2001 and the end of the financial year will be included in agency Annual Reports.

(1) As at 20 June 2001, there are 351 AWAs in operation in the ACT Public Service. This number includes any agreement that is currently valid and been approved by the Office of the Employment Advocate.

(2) The number of AWAs in each agency are as follows:

- Chief Minister's Department - 38
- Department of Treasury - 23
- Department of Urban Services - 18
- Department of Justice and Community Safety - 17 (15 of these are at Emergency Services)
- Department of Health, Housing and Community Care - 30 (28 of these cover Housing staff)
- ACT Community Care - 84
- The Canberra Hospital - 86
- Calvary Hospital - 25
- ACT Auditor-General - 21
- Gungahlin Development Authority - 3
- ACT Gambling and Racing Commission - 3
- Kingston Foreshore - 1
- Inquiry Disability Services - 1
- Stadiums Authority - 1

There are no current AWAs covering ACT public servants in the following agencies:

- Department of Education and Community Services
- Canberra Institute of Technology
- InTACT
- Cultural Facilities Corporation
- Canberra Tourism and Events Corporation
- ACTION
- ACT Insurance Authority
- ACT Workcover
- Totalcare
- Exhibition Park in Canberra
- ACT Electoral Commission
- Legislative Assembly Secretariat
- Independent Competition and Regulatory Commission
- Australian International Hotel School
- Long Service Leave Board

(3) A range of bonuses and allowances are paid under AWAs. These are as follows:

Retention/attraction bonuses (62)
Skill enhancement bonuses (10)
Bushfire season allowances (2)
Clinical target bonuses (2)
Expense of office allowances (2)
On-call allowances (2)
Project completion bonuses (10)
Quality target bonus payments (»)
In-charge allowances (4)

(4) The total maximum cost of these bonuses for the Service, if they were all paid. and this would be on the basis that all services were able to be delivered, is $197,500 per annum. This figure is an estimate of costs for the duration of AWAs, which in some instances is up to 3 years. The true figure is unlikely to be this figure however it is not possible to speculate what the true figure may be. The duration of AWAs will be included in agency Annual Reports.

Sixty-seven percent of these bonuses are available to professional staff, primarily in the health services area, including nurses, dentists and specialist staff in ACT Community Care and The Canberra Hospital. Fifty-seven of these bonuses are identical to those provided to staff under a Certified Agreement.

(5) Other benefits above base salary provided in particular AWAs include one or more of the following:

enhanced increment points to reward high performance or skill levels;

access to flexible salary packaging arrangements;

additional leave;

access to vehicles or vehicle allowances and home garaging arrangements;

additional pay increases;

relocation cost reimbursements;

work related telephone charges; and

one AWA includes some elements of the remuneration package provided at the Executive 1.1 Level, including a car. The salary component is in line with remuneration available under the AW A framework. This AWA is for the period of a specific task.

(6) The total cost of these benefits is difficult to calculate given that in some instances staff have a choice to utilise a particular benefit or not, as in the case of additional leave. Some benefits are provided at no cost to the employer, such as salary packaging. Setting aside benefits such as these, the estimated cost is $419,409. A-ain, this cost is for the duration of the AWAs - up to 3 years.

Approximately $89,000 of this cost relates to eight response vehicles at the Emergency Services Bureau. The vehicles are referred to in a number of AWAs to allow limited private use to staff in exchange for contributions towards the vehicles' running costs. This arrangement not only benefits staff, but also significantly reduces the response time to emergencies. Had the AWAs not existed, the cost of the vehicles would still be borne by the Department.

ACTTAB
(Question No 372)

Mr Corbell asked the Treasurer, upon notice:

In the 2001-02 Budget papers (Budget Paper 4) ACTTAB has listed under "2001-02 Highlights" the relocation of its head office complex to a new custom built facility to meet current occupational health and safety standards and to improve occupational efficiencies:

(1) What are the current occupational health and safety standards not being met by the current head office complex?

(2) When and how did the ACTTAB become aware of these unmet occupational health and safety standards?

(3) Was there an occupational health and safety analysis of the head office complex undertaken?

(4) What operational efficiencies are expected to be achieved by relocating to a new head office complex?

(5) What are the estimated savings of those efficiencies per annum over the next 10 years?

(6) Why can those efficiencies not be achieved in the current headquarters?

(7) What advice did the ACTTAB receive in relation to the estimated operational efficiencies?

(8) How were these efficiencies determined?

(9) Will the site be sold via a public tender?

(10) If not, why not?

(11) Who has provided the valuation of the site?

Mr Humphries: The answers to the member's questions are as follows:

(1) All ACTTAB Head Office buildings have exceeded their "use by" date in terms of occupational health and safety issues and non-compliance with current regulations and codes. As the oldest building was constructed 34 years ago, external consultants have identified that certain systems are beyond their economic useful life.

Any building of that age would not be fully compliant with current occupational health and safety regulations. Although not unsafe, there are specific instances of non-compliance, such as:

- exit travel distances do not fully comply with standards;
- treads and raisers do not fully comply with standards; and
- access for people with disabilities is not provided in all areas.

To fully rectify these instances of non compliance requires extensive work and would be an uneconomical use of ACTTAB's resources. These problems have necessitated the need to relocate to a building fully compliant with current regulations and codes.

(2) The Australian Services Union Representatives, at a Staff Consultative Committee Meeting in 1999, put management on notice that the state of the Head Office Facility was such that, without a commitment to upgrade the facility, the Union would have no alternative but to issue a Performance Improvement Notice (PIN) to ACTTAB.

I am advised that Cox Humphries Moss reported on the head office facility in October 1999. The report was commissioned by ACTTAB to establish the most economic and efficient method to bring the facility in Dickson up to a functional and contemporary standard.

(3) I am advised that John Raineri & Associates Pty Ltd, Consulting Engineers, as part of the Cox Humphries Moss report inspected the head office facility and reported on the installed services conditions and conformance with the Building Code of Australia.

(4) ACTTAB believes that the proposed new Head Office will provide efficiencies in the following areas:

- decreased expenditure on preventative and emergency maintenance of existing electrical and mechanical services;

- efficient utilisation of the new facility, as only 60% of the current head office facility is in use by ACTTAB or tenants; and

- availability of the latest telecommunications services (TransACT) which would ensure better technological redundancies.

(5) ACTTAB advises that no estimated savings of operational efficiencies over the next 10 years have been quantified in respect of the occupational health and safety issues, non-compliance with current building regulations and codes and the inefficient utilization of current head office facility.

As a responsible employer, ACTTAB is concerned that it does not contribute in any way to an Occupational Health & Safety issue in the workplace.

ACTTAB advises that the increasing costs of maintenance of the current facility, particularly in relation to the air conditioning system, illustrates the costs incurred in maintaining a system highlighted by the consultants as being beyond its economic and useful life. Over the last three years maintenance costs for the air-conditioning system alone have reached $68k.

(6) I am advised by ACTTAB that efficiencies cannot be achieved in the current headquarters without a major refurbishment of the premises, at an estimated cost of $3m.

ACTTAB has been unable to secure long-term tenants for the unused floorspace (mainly due to the internal structure and current state of the building). ACTTAB is also conscious that a role of a property manager is not part of ACTTAB's core business, nor it is a role that it would pursue under optimal conditions.

(7) I am advised that ACTTAB has received no specific advice in relation to estimated operational efficiencies.

(8) Refer to Item 7.

(9) I am advised by the ACTTAB Board that if the Head Office facility at Dickson is to be sold it will be via a public auction. The auction will be subject to a reserve price and if that price is not met at auction, ACTTAB will negotiate with the highest bidder. If that bidder does not meet the reserve, ACTTAB reserves the right to sell the property to any interested party for the reserve price.

(10) Refer to Item 9.

(11) ACTTAB advise that valuations as at March 2001 have been provided by:

• McCann & Associates; and

• Ray L Davis.

ACTTAB
(Question No 373)

Mr Corbell asked the Treasurer, upon notice:

In the 2001-02 Budget papers (Budget Paper 4) ACTTAB has identified an increase of $3.868 million for property, plant and equipment:
(1) What is the amount identified for the new head office.
(2) Of that amount how much as been estimated for the land costs.
(3) How much has been estimated for the building costs.
(4) Has a site been selected for the new head office.
(5) If it has, where is it.
(6) Why and how was the site selected.
(7) If a site has been selected how will ACTTAB acquire the site.
(8) Were any alternative sites considered by ACTTAB for the new head office.
(9) If not, why not.
(10) What companies will be involved in the (a) construction (b) preparation of the site of the new head office.

Mr Humphries: The answers to the member's questions are as follows:

(1) The Government approved the redevelopment of ACTTAB Head Office project on the condition that the total net cost to ACTTAB shall not exceed $2.5 million.

(2) I am advised by ACTTAB that in reviewing its options for a head office no specific amount has been identified for land costs.

(3) I am advised by ACTTAB that in reviewing its options for a head office no specific amount has been established for the building costs.

(4) I am advised that no commitment has been made on a specific site for ACTTAB's new head office.

(5) I am advised that the ACTTAB Board's preferred location is Fern Hill Technology Park, Bruce (Block 14, Section 33).

(6) I am advised that the ACTTAB Board believes that the Fern Hill Park proposal meets all its present office and communication requirements and provides an excellent commercial outcome for ACTTAB and its Shareholders. I am advised by ACTTAB that no commitment to any site has yet been made.

(7) I am advised that if Fern Hill becomes the chosen site, then it is proposed John Hindmarsh (ACT) will procure a crown lease over the site on behalf of ACTTAB.

(8) Yes.

(9) Other sites were considered.

(10) I am advised that if the ACTTAB Board's preferred option of Fern Hill, Bruce becomes the chosen site, then John Hindmarsh (ACT) P/L will be involved with the construction and preparation of the site.

Motor vehicle fleet
(Question No 374)

Mr Stanhope asked the Treasurer, upon notice:

In relation to the Government motor vehicle fleet:

(1) How many vehicles of the following type are in the Government fleet:

(a) four cylinder sedans;
(b) six cylinder sedans;
(c) eight cylinder sedans
(d) four wheel drive vehicles;
(e) vans and utilities;
(f) trucks less than 3 tonnes;
(g) trucks of 3 tonnes or more; and
(h) other.

(2) How many vehicles in each category are:

(a) hired;
(b) purchased; and
(c) equipped to use LPG fuel.

(3) How many new vehicles in each category are (a) hired or (b) purchased each year.

(4) What is the average distance the vehicles in each category have covered when disposed of.

(5) What arrangements does the Government have to purchase fuel for these vehicles.

(6) What price does the Government pay for:

(a) diesel;
(b) petrol; or
(c) LPG fuel.

(7) What is the average price obtained by the Government on sale of the vehicles in each category.

(8) How many vehicles are sold each year.

Mr Humphries: The answer to the member's question is as follows:

(1) How many vehicles of the following type are in the Government fleet:

Four Cylinder Sedans	431
Six Cylinder Sedans	234
Eight Cylinder Sedans	No Vehicles
Four Wheel Drive Vehicles	108
Vans and Utilities	288

Trucks Less than 3 Tonnes	3
Trucks of 3 Tonnes or More	20
Other	154

(2) How many vehicles in each category are:

(a) hired;

Four Cylinder Sedans	431
Six Cylinder Sedans	234
Eight Cylinder Sedans	No Vehicles
Four Wheel Drive Vehicles	108
Vans and Utilities	288
Trucks Less than 3 Tonnes	3
Trucks of 3 Tonnes or More	20
Other	154

(b) purchased; *all vehicles are hired*

(c) equipped to use LPG fuel. - 11 vehicles (six cylinder sedans/wagons)

(3) How many new vehicles in each category are (a) hired or (b) purchased each year.

Vehicles purchased by lessor leased to the ACT Government from 13/6/2000-13/6/2001

Four Cylinder Sedans	171
Six Cylinder Sedans	143
Eight Cylinder Sedans	0
Fomr Wheel Drive Vehicles	53
Vans and Utilities	137
Trucks Less than 3 Tonnes	0
Trucks of 3 Tonnes or More	1
Other	0

(4) What is the average distance the vehicles in each category have covered when disposed of.

Four Cylinder Sedans	29,500
Six Cylinder Sedans	35,600
Eight Cylinder Sedans	No Vehicles
Four Wheel Drive Vehicles	36,200
Vans and Utilities	38,000
Trucks Less than 3 Tonnes	73,500
Trucks of 3 Tonnes or More	182,000
Other	3,085 - Hours

(5) What arrangements does the Government have to purchase fuel for these vehicles.

Each vehicle is typically supplied with a fuel card, Shell is the default supplier but access is available to the other suppliers eg; BP, Caltex, Mobil.

(6) What price does the Government pay for: *(current @ 31/5/01)*

a) Diesel = $0.93 inc GST per litre
b) ULP = $0.86 inc GST per litre
c) LPG = $0.51 inc GST per litre

(7) What is the average price obtained by the Lessor on sale of the vehicles in each category.

Four Cylinder Sedans	$15,883.00
Six Cylinder Sedans	$22,974.00
Eight Cylinder Sedans	No Vehicles
Four Wheel Drive Vehicles	$25,704.00
Vans and Utilities	$20,455.00
Trucks Less than 3 Tonnes	$27,225.00
Trucks of 3 Tonnes or More	$42,252.00
Other	$ 3,862.00

(8) Lease turnover is approximately 662 vehicles per annum.

Please note: the category "Other" contains items such as ride on mowers, trailers and other specialist equipment.

Bruce Stadium—grass
(Question No 375)

Mr Stanhope asked the Chief Minister, upon notice. on 13 June 2001:

1. How many times in the past 3 years has the surface grass at Bruce Stadium been replaced.
2. For each occasion that the grass was replaced in that period, who was the contractor engaged to supply and/or lay the replacement grass.
3. What was the cost to (a) supply and (b) lay the grass.
4. On each occasion that the grass was replaced in that period, how was the contractor chosen.
5. On each occasion that the grass was replaced in that period, what role did the following people play in the choice of the contractor:
(a) Chief Minister
(b) Chief Minister's staff
(c) Major hirers' representatives and
(d) Bruce Stadium Operations Pty Ltd or Stadiums Authority representatives.
6. What legal advice was obtained during the negotiation of any contract before replacement of the surface was signed and could the government provide copies of the advice.
7. Has the government commenced legal action against any of the contractors for failure to comply with the contract.
8. What stage have the legal proceedings, if any reached.
9. Has any contractor commenced legal proceedings against the government for failure to pay or any other reason.
10. What stage have the legal proceedings, if any, reached.

Mr Humphries: The answer to the member's question is as follows:

1. Twice.

2. StrathAyr Pty Ltd in August 2000.
HG Turf Pty Ltd in September 2000.

3. August 2000 - the price quoted by StrathAyr was $4,91,810. The price was to supply and lay the grass and the elements were not separately identified. No payment has been made.

September 2000 - $755,440 to supply and lay the grass and the elements were not separately identified.

4. August 2000 - the contract with StrathAyr was a result of direct negotiation. StrathAyr was the owner of the netlon system that was laid as part of the redevelopment of the Stadium in December 1997. At the time the contract was entered into the StrathAyr system was the most suitable replacement having regard to the surface requirements.

September 2000 - the contract with HG Turf was a direct contract entered into by the Sydney Organising Committee for the Olympic Games (SOCOG).

5. August 2000 - the decision to replace the turf was a decision of the Bruce Operations Pty Ltd Board and the ACT Olympics Unit in consultation with FIFA and SOCOG. The then Chief Minister was informed of the decisions and the reasons.

September 2000 - the decision to replace the StrathAyr surface was made by SOCOG who was responsible for the Stadium from 25 August 2000. SOCOG advised that Olympic Soccer would not be played in Canberra unless the HG Turf product was used: The then Chief Minister was a party to the discussions with the Olympics Unit and the Stadiums Authority.

6. August 2000 - contracts for the replacement by StrathAyr were prepared for the Stadiums Authority by Minter Ellison. Despite attempts by the Authority the contracts were not signed by the suppliers. The extant contract is constituted by an exchange of letters between BOPL and StrathAyr.

September 2000 - a contract was entered into on 8 September 2000 between SOCOG and HG Turf.

7. No.

8. Refer to 7 above.

9. No. However, StrathAyr has stated publicly that it intends to institute proceedings to recover costs associated with their failed attempt to provide a playing surface for Olympic soccer. The Authority acting on advice from the ACT Government Solicitor has indicated that it does not accept any liability for the costs incurred by StrathAyr. In the event of such a claim being made the Government will consider the position in relation to any available claims.

10. Refer to 9 above.

Silverton building site (Question No 376)

Mr Stanhope asked the Minister for Urban Services, upon notice:

In relation to the Silverton Building site on Moore Street:

(1) Who owns the site.
(2) How long has the site been vacant.
(3) When will the site be developed.
(4) Why is the site vacant.
(5) What are the legal requirements to develop the site.
(6) Have all the legal requirements in relation to the site been met.
(7) If the site is not redeveloped will the Government resume the lease.
(8) What are the legal requirements for maintaining a lease in a neat and tidy state.

Mr Smyth: The answers to the member's questions are as follows:

(1) Notrevlis Pty Limited.

(2) The building was demolished in 1995. Approval for demolition was granted on 29 September 1994 by the former Department of the Environment, Land and Planning, under the then Labor Government.

(3) The existing approval of 22 July, 1999 is for a 7 storey office tower building with basement car parking and ground floor retail. The approval is valid for two years from the date of approval. A new application for a 7 storey office tower and ground floor retail, with basement car parking, was lodged 10 May 2001 and is currently being considered by Planning and Land Management.

(4) The original building was demolished, as it was found to be structurally unsound.

(5) The original lease for the site was issued in 1982. The provisions of the lease required the lessee to erect a building, carparking and a colonnade at a cost of not less than two million dollars. These works were completed as required by the lease, and a certificate of compliance was issued.

The original lease did not contain the usual clause providing, in effect, that the lessee must not fail to use the land for the purposes expressed in the lease. Further, when the development approval of 29 September 1994 was granted, it approved demolition but did not require the lessee to construct a replacement building. The Government's ability to require the lessee to develop the land has therefore been limited.

(6) A Compliance Certificate is not issued until the building and development covenants of the lease have been complied with. The Compliance certificate for this lease was issued in December 1983.

(7) An application is currently being assessed for development of the site. The Government has no intention to resume the lease under these circumstances.

(8) An unclean block is an activity subject to an Order under Item 4 of Schedule 5 to the Land (Planning and Environment) Act 1991. To date, any requests made to the lessee to clean the site have been attended to promptly (eg: provision of pool floats to combat growth of algae/bacteria when water accumulates on site). The site is cleaned out regularly.

FAI House
(Question No 377)

Mr Stanhope asked the Minister for Urban Services, upon notice:

In relation to FAI House:

(1) Has the rent for the lease of FAI House been adjusted since the lease was entered into by the ACT Government.
(2) If so, when.
(3) What are the terms of any adjustment to the rent.
(4) What was the basis for the change in rent.
(5) Was the basis for the change in rent of FAI House also relevant to other leases by the ACT Government of other premises in the ACT.
(6) If so, which buildings.
(7) Were there rental adjustments of the same order as any changes for FAI House.

Mr Smyth: The answer to the member's questions is as follows:

(1) There has been no adjustment to the rent for FAI House since the lease was entered into by the Territory.
(2) See (1) above.
(3) The lease includes the option for rent reviews to market every two years from the date of commencement. The lease has a ratchet clause. No rent reviews have occurred.
(4) Agreed fair market rent.
(5) Each ACT Government lease is specific to a particular property and will reflect market conditions at the time.
(6) See (5) above.
(7) See (5) above.

Supreme Court
(Question No 378)

Mr Stanhope asked the Attorney-General, upon notice:

In relation to the ACT Supreme Court:

1. What is the total floor space of the ACT Supreme Court building
2. What is the total area of the building occupied by the Supreme Court.
3. How many people are employed in the Supreme Court building.
4. What advice has been sought and/or received by the Government about the heritage status of the building.
5, Could copies of any such advice be provided.
6. What advice has been received from the heritage authorities about renovations or improvements to the Supreme Court building.
7. Could copies of any such advice be provided.
8. Has the Government received any advice that a lift cannot be incorporated into the building.
9. If so, can a copy of the advice be provided.

Mr Stefaniak: The answer to Mr Stanhope's questions is as follows:

1. What is the total floor space of the ACT Supreme Court building?

- The total building area is 3777.58 metres/squared.

2. What is the total area of the building occupied by the Supreme Court?

- The total useable area is 3113.65 metres/squared. Public areas and plant rooms totalling 926.93 metres/squared not taken into the total useable area in the building.

3. How many people are.employed in the Supreme Court building?

- Total staff including judiciary is 47.

4. What advice has been sought and or received by the Government about the heritage status of the building?

- The following advice has been received: ACT Supreme Court -*A report on Development Options for ACT Capital Works Department of Urban Services; On behalf of the ACT Attorney General's Department 22 February 1995; by MCC Joint Venture Architects.*

  In the process of compiling this report the Australian Heritage Commission was consulted on heritage issues and responded that the building and the precinct had been nominated for entry in the Register of the National Estate and both were being evaluated.

- *In March 1996: Act Supreme Court Building & Precinct Stage 2 Volume 3: Heritage Assessment; for the ACT Government Attorney General's Department & Works and Commercial Services; by Freeman Collett & Partners (Conservation Architects & Planners - Canberra).*

- *February 2001: ACT Supreme Court - Report on Copper Roof; prepared by Eric Martin and Associates for Totalcare Facilities Management. (Roof Replacement Project)*

5. Could copies of any such advice be provided?

- Yes

6. What advice has been received from the heritage authorities about renovations or improvements to the Supreme Court building?

- See answer to question 4.

7. Could copies of any such advice be provided?

- Yes

8. Has the Government received any advice that a lift cannot be incorporated into the building?

- Yes

9. If so, can a copy of the advice be provided?

- Yes. Refer to report: *ACT Supreme Court Building & Precinct Stage 2 Volume 3: Heritage Assessment; for the ACT Government Attorney General's Department & Works and Commercial Services; by Freeman Collett & Partners (Conservation Architects & Planners - Canberra)* cited above. Verbal advice has also been received from the Senior Architect, Department of Urban Services.

Students with autism spectrum disorder (Question No 379)

Mr Wood asked the Minister for Education, upon notice, on 14 June 2001:

In relation to children diagnosed with autism spectrum disorders who are eligible to proceed to primary school in 2002:

(1) Are statements by parents that at least 16 children are in this category correct.

(2) What advice has been given to parents about their children's education in 2002.

(3) What allocation is on the departmental budget for these new enrolments.

(4) What schools and programs are planned to cater for these children.

(5) Why has there been an increase in the number of children presently in autism units with no increase in staff.

Mr Stefaniak: The answer to Mr Wood's question is:

(1) Indications are that 15 students with a diagnosis of autism will proceed to primary school in 2002.

(2) Counsellors will shortly be discussing placement with parents, and arranging visits to different settings and schools. During the In School Review process in Term 3, specific placement recommendations will be made for each child.

(3) The In School Review proqess will identify the needs for each child. Funding is ailable in the special needs buduet for all children with disabilities.

(4) Students will be placed according to need. Options available are:

- special schools;
- learning support units; and
- mainstream classes with integration support.

(5) Autism units enrol up to six students and are staffed with one teacher and one special teacher's assistant (STA). Schools are able to put forward a case for extra STA support. Extra STA support in Semester 1 is being provided to the Autism units at Latham, North Ainslie and Yarralumla Primary Schools and Belconnen High School. The Weetangera Unit has requested, and will receive, extra STA support in Semester 2.

School students with disabilities—therapy services (Question No 380)

Mr Wood asked the Minister for Health, Housing and Community Services, upon notice, on 14 June 2001:

In relation to the review of therapy services for school students with disabilities, conducted by Jill Cameron and Associates:

(1) What factors led to the need for the consultancy.

(2) On whose advice was a review deemed necessary.

(3) What was the cost.

(4) Will the review be released and if so, when.

(5) What outcomes are now proposed.

Mr Moore: The answer to Mr Wood's question is:

(1) In December 1999 the Standing Committee on Education, Community Services and Recreation tabled its Report into Education Services for Students with a Disability (Report No. 3). This Report makes a number of significant recommendations in relation to therapy services for school aged students with disabilities, including:

- a review of the mode of delivery of therapy services (Recommendation 9);
- review the administrative arrangements for the delivery of therapy services (Recommendation 10); and
- support for the development and implementation of a whole of Government planning process for children and young people with a disability (Recommendation 17).

(2) The Government's response agreed with the Committee's recommendations and indicated that there would be one review to address Recommendations 9, 10 and 17.

(3) The Review has been costed at $30,350.

(4) The consultancy is expected to be completed by the end of July 2001.

(5) The Government will need to consider the Review's recommendations.

Police officers—redeployment (Question No 381)

Mr Stanhope asked the Minister for Police and Emergency Services, upon notice:

In relation to the redeployment of police officers from the Communications Centre.

(1) How many officers have been redeployed from duties in the Communications Centre to other operational duties?
(2) Who replaced these officers?
(3) What was the designation or rank of each of the redeployed officers?
(4) What was the designation, rank or classification of each of the persons that replaced the redeployed officers?
(5) What was the salary of each of the (a) redeployed officers and (b) persons that replaced the redeployed officers?
(6) What are the current duties and designation or rank of the redeployed officers?
(7) To which operational units were the redeployed officers transferred?
(8) How many of these officers were redeployed to task forces on either housebreaking or motor vehicle theft?
(9) How many officers have been redeployed from duties other than the Communications Centre to these task forces?
(10) Who is performing the duties of these other officers redeployed to task forces?

Mr Smyth: The answer to Mr Stanhope's question is as follows:

(1) Twenty-nine positions were redesignated as unsworn in the Communications Centre. Nineteen of these were occupied at the time by sworn personnel. Seven personnel left employment with the AFP, three have been promoted and nine were redeployed to other duties.
(2) The officers were replaced with non-sworn members.
(3) Constable.
(4) AFP Grade 7 level.
(5) (a) The salary range for the redeployed officers was $40,409 - $47,504.
(b) The salary of the persons replacing the redeployed officers is $34,610 - $37,425.
(6) The rank and designation of the redeployed officers was Constable. Their current duties are:
General duties policing, investigative operations, operational support and overseas postings.
(7) Woden Station, Belconnen Station, a strike team, the Firearms Registry and overseas postings.
(8) Two.
(9) The total number of personnel assigned to the task forces was 43 as at 22 June 2001.
(10) Various officers within ACT Policing. ACT Policing recruited 106 sworn personnel in 2000 and these have been used to back fill vacancies in operational areas.

Courts and tribunals (Question No 382)

Mr Stanhope asked the Attorney-General, upon notice:

In relation to administration of the Courts:

1. What is the average and longest delay in obtaining a hearing in the:
   a) Magistrates Court;
   b) Mental Health Tribunal;
   c) Residential Tenancy matters;
   e) Discrimination Tribunal; and
   f) Guardianship Tribunal
2. What is the average and longest delay from the time of the hearing to delivery of a decision in the:
   a) Magistrates Court;
   b) Mental Health Tribunal;
   c) Residential Tenancy matters;
   d) Discrimination Tribunal; and
   e) Guardianship Tribunal.
3. How many part hear matters are there in each of these jurisdictions?
4. What is the age of the oldest part heard?
5. Which magistrates have part heard matters and how many does each magistrate have?
6. How many statements of reason have been requested under section 108 of the Mental Health legislation?
7. What is the average time taken for delivery of those reasons?
8. What personal staff do magistrates have to assist them?
9. What are the duties of these staff?
10. How many of these staff members are there?
11. What is the cost of providing these services to magistrates?
12. What personal staff do judges have to assist them?
13. What are the duties of those staff?
14. How many of these staff members are there?
15. What is the cost of providing these services to judges?

Mr Stefaniak: The answer to Mr Stanhope's questions is as follows:

1. What is the average and longest delay in obtaining a hearing in the
a) Magistrates Court;
b) Mental Health Tribunal;
c) Residential Tenancy matters;
d) Discrimination Tribunal; and
e) Guardianship Tribunal.

1a) ACT Magistrates Court

The following is an average of time taken, from when a matter is set down for hearing until the next available hearing date. (Frequently matters drop out of the lists, freeing up earlier dates which can be allocated to other matters. This is not reflected in the following table): However, the Court can give earlier hearing dates if the matter is urgent and the parties request it.

JURISDICTION	AVERAGE TIME FOR MATTER TO BE SET DOWN FOR HEARING
Criminal	4 Months
Traffic	3 Months
In Custody	6 Weeks
Civil	4 Months
Family Violence	14 days to 1 month

1 b) ACT Mental Health Tribunal:

The average time taken and longest delay for a Mental Health application to go to hearing is 4-6 weeks.

1 c) ACT Residential Tenancies Tribunal:

The average time taken and longest delay for a Residential Tenancy application to go to hearing before a Tribunal member is 2-3 weeks.

1 d) ACT Discrimination Tribunal:

The average and longest delay in obtaining a hearing in the Discrimination Tribunal is approximately 2-3 Weeks.

1e) ACT Guardianship and Management of Property Tribunal:

The average and longest delay in obtaining a hearing in the Guardianship Tribunal is approximately 6 weeks from the date of application to the Tribunal.

2. What is the average and longest delay from the time of the hearing to delivery of a decision in the:

2a) ACT Magistrates Court

The average delay from the time of hearing to handing down of a decision in the Magistrates Court, is less than 3 months. As of 29 May 2001 there were 6 outstanding Magistrates Court judgements that have been outstanding for more than 3 months.

The Chief Magistrate has directed other Magistrates to finalise these outstanding matters by 31 July 2001.

2b) ACT Mental Health Tribunal

The average and longest delay from time of hearing to delivery of decision is approximately 3 months. However in certain circumstances, longer delays may occur depending on availability of medical reports.

There are currently no outstanding decisions.

2c) ACT Residential Tenancies Tribunal

This Tribunal works to a legislative timeframe. The average delay from hearing to delivery of decision is 3-4 weeks.

There are currently no outstanding decisions.

2d) ACT Discrimination Tribunal

The average time from hearing to delivery of decision is approximately 3 months. However, as at 29 May 2001 there are two outstanding matters, that have taken longer than 3 months to finalise.

The Chief Magistrate has advised that these matters will also be finalised by 31 July 2001.

2e) ACT Guardianship and Management of Property Tribunal

The average time from hearing to delivery of decision is less than 3 months, however it is subject to medical evidence being available to the Tribunal.

There are currently no outstanding decisions.

3. How many part heard matters are there in each of these jurisdictions?

This answer to this question is difficult to complete, because intermediate figures are not collected by the Courts. Statistics are compiled on the basis that matters that are filed/lodged, heard, adjourned, remanded and/or adjudicated upon and finalised by the handing down of a decision.

Additionally to collect intermediate figures would be extremely difficult, having regard to the fact that there at least 15 different categories of "part-heards" for example CADAS, Griffith Bonds, case management processes, pre-sentencing reports, sentencing reports, assessments for suitability for Community Service Orders and DODA treatment orders. .

4. What is the age of the oldest part heard matter?

See the answer to question 1.

5. Which Magistrates have part heard matters and how many does each Magistrate have?

See answer to question 3.

6. How many statements of reason have been requested under section 108 of the Mental Health Legislation?

Mental Health Tribunal records indicate that 10 statement of reasons have been requested since the Tribunal commenced. Statement of reasons have been supplied in 9 of these matters, within the statutory timeframe of 28 days.

There has been one outstanding request, which exceeded the statutory timeframe and which has since been finalised.

7. What is the average time taken for delivery of those reasons?

The average time taken for delivery of those reasons is within the statutory timeframe of 28 days.

There are currently no unanswered requests for Mental Health Tribunal statement of reasons.

8. What personal staff do magistrates have to assist them?

Chief Magistrate has two dedicated staff members and a further officer under his direction who performs functions for all Magistrates.

Magistrates have one staff member to assist them.

9. What are the duties of those staff?

The duties of those staff may include being an associate; research clerk; providing secretarial and administrative support to their Magistrate.

10. How many of these staff members are there?

Eleven.

11. What is the cost of providing these services to Magistrates?

Wages and salary cost is: $393,150.00.

12. What personal staff do judges have to assist them?

The Chief Justice has three staff members (Personal Assistant, Research Assistant and an Associate).

The Judges have two staff members (Personal Assistant and Associate).

13. What are the duties of those staff?

The duties of the staff may include being an associate; research clerk; providing secretarial and administrative support to their Judges.

14. How many of these staff members are there?

There are nine staff members. Five of these positions are filled permanently and three are filled by temporary contract. The Judge's Associates and the Chief Justice's Research Assistant are filled on a twelve-month contract basis.

15. What is the cost of providing these services to judges?

The current salary costs of providing staff services to the Judges is $371,000.00.

Department of Health, Housing and Community Care (Question No 383)

Mr Wood asked the Minister for Health, Housing and Community Services, upon notice:

In relation to advisory committees, standing committees and boards established within the Department of Health, Housing and Community Services:
(1) How many are there.
(2) What is the name of each.
(3) Who is the chair of each.
(4) Who are the members of each.
(S) On what date was each established.
(6) What are the terms of reference for each.
(7) To whom does each report.
(8) Which ones have fixed terms of operation.
(9) How many are established under an Act of the Legislative Assembly.
(10) What payments are made to each Chair and to each member.

Mr Moore: The answer to the member's question is:

There are 21 boards and committees established within the Department of Health, Housing and Community Care. Please note, members of boards and committees that are either ACT Government or Commonwealth Authority employees, do not receive payment of sitting fees.

Please see the Attachment for the answers to questions 2-10.

DEPARTMENT OF HEALTH HOUSING AND COMMUNITY CARE BOARDS AND COMMITTEES

AS AT 30 JUNE 2001

ACT Aged Health Care Services Advisory Council
Established under: Ministerial appointment
Date established: September 1999 *Terms of operation*: N/A
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

The role of the ACTS Aged Health Care Services Advisory Council (the Council) is to provide advice to the Mifiister for Health, Housing and Community Services (the Minister) in matters concerning the planning and provision of health care services for the aged in the ACT with a strong consumer focus.

The Council will be asked for advice on a range of matters which may include:
• coordination of health care services for the aged.
• issues of access and equity.
• gaps in health care services for the aged.
• unmet needs in health care services for the aged.
• health services planning for the aged

The Council will assist the Minister and the Department of Health, Housing and Community Care in developing a strategic framework to inform the planning and purchasing of aged health care services with clear timelines for action, implementation and review.

In order to provide this advice to the Minister, the Council will actively seek out the views of people using aged care services and others who are involved in supporting older people. The Council will be guided in its consultation by the ACT Government's *Consultation Protocol*.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Ms Julia Biles	**Chair**	**Nil**
Ms Ann Wentworth AM	**Deputy Chair**	**Nil**
Ms Sally Koodiaroff	**Member**	**Nil**
Dr David Jarvis	**Member**	**Nil**
Venerable Thich Quan Ba	**Member**	**Nil**
Mr Geoffrey Hardwick	**Member**	**Nil**
Ms Carole Radnedge	**Member**	**Nil**
Ms Helen Bedford	**Member (ex officio) Health, Housing & Community Care**	
Mr Len Waugh	**Member (ex officio) Health & Aged Care (ACT Office)**	

Chiropractors and Osteopaths Board of the ACT
Established under: *Chiropractors and Osteopaths Act 1983*
Date established: 1983
Terms of operation: Health Professions Boards (Procedures) Act 1981
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Chiropractors and Osteopaths Act 1983* and:

- register suitably qualified chiropractors and osteopaths to enable them to practise in the ACT;
- discipline registered chiropractors and osteopaths, after due inquiry on specific grounds through suspension/cancellation of registration, cautioning or reprimanding the chiropractor or osteopath, ordering the chiropractor or osteopath to seek or undergo medical or psychiatric treatment or counselling, imposing on the chiropractor's or osteopath's registration such conditions relating to the practise of chiropractic or osteopathy as it considers appropriate, or ordering the practitioner to complete specified educational courses.
- consideration of complaints against registered practitioners and reviewing accounts for fees for chiropractic or osteopathic services; and
- general monitoring of the conduct of the profession in the ACT.

The Board comprises the chairperson and two members appointed by the Minister in accordance with the *Health Professions Boards (Procedures) Act 1981* and two members elected by the profession registered in the ACT in accordance with the *Health Professions Boards (Elections) Act 1980*, giving a total of five (5) on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Dr Evan Lallemand	**Chairperson**	**Nil**
Dr Timoth Taylor	**Elected Member**	**Nil**
Dr Donald McDowall	**Appointed Member Deputy Chair**	**Nil**
Dr Stuart Steele	**Acting Member**	**Nil**
Dr John Gledhill	**Appointed Member**	**Nil**
Mr Bruce Vincent	**Seconded by Board Community Rep.**	**Nil**

Community and Health Rights Advisory Committee
Established under: *Community and Health Services Complaints Act 1993*
Date established: 1993
Terms of operation: *Community and Health Services Complaints Act 1993 (S62)*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

Community and Health Services Complaints Act 1993

"62. Functions

The functions of the Council are—

a) to advise the Minister and the Commissioner in relation to the redress of grievances relating to community services and health services or their provision;

(b) to advise the Minister on—

(i) the means of educating and informing users, providers and the public on the availability of means for making community service and health service complaints or expressing grievances in relation to community services and health services or their provision;

(ii) the operation of this Act; and

(iii) any other matter on which the Minister requests the advice of the Council; and

(c) to refer to the Commissioner any matter that may properly be dealt with by the Commissioner under this Act and that, in the view of the Council, should be so referred.

63. Membership

(1) The Council shall consist of the following members:

(a) a Chairperson;

(b) 1 person who, in the opinion of the Minister, is qualified, by reason of experience and expertise, to represent the interests of users of health services;

(c) 1 person who, in the opinion of the Minister, is qualified, by reason of experience and expertise, to represent the interests of users of services for aged people;

(d) 1 person who, in the opinion of the Minister, is qualified, by reason of experience and expertise, to represent the interests of users of services for people with a disability;

(e) 2 persons who, in the opinion of the Minister, are qualified, by reason of experience and expertise, to represent the interests of providers;

(f) such other persons, if any, not exceeding 2, who, in the opinion of the Minister, are qualified, by reason of experience and expertise, to contribute to the functions of the Council.

(2) The Minister shall appoint the members of the Council by instrument.

(3) An instrument under subsection (2) is a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act 1989.

64. Terms of appointment

Subject to this Part, a member of the Council holds office for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment."

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Ms Fiona Tito	**Chair**	**Nil**
Mr Russell McGowen	**Member**	**Nil**
Ms Thelma Hunter	**Member**	**Nil**
Mr David Heckendorf	**Member**	**Nil**
Dr Anus McIntosh	**Member**	**Nil**
Mr Ray Dickinson	**Member**	**Nil**
Ms Susan Norton	**Member**	**Nil**
Ms Gwen Wilcox	**Member**	**Nil**

Dental Board of the ACT
Established under: *Dentists Act 1931*
Date established: 1931
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Dentists Act 1931* and:

- register suitably qualified dentists, dental specialists and dental hygienists to enable them to practise in the ACT;
- discipline registered dentists, dental specialists and dental hygienists, after due inquiry on specific grounds through suspension/cancellation of registration cautioning or reprimanding the person, ordering the practitioner to seek or undergo medical or psychiatric treatment or counselling, or imposing on the practitioners registration such conditions relating to the practise of dentistry, requiring the practitioner to complete specified educational courses or order that the practitioner seek and follow advice, in relation to his or her practise , from persons specified by the Board as it considers appropriate;
- consider complaints against registered dentists, specialist dentists or dental hygienists;
- general monitoring of the conduct of the profession in the ACT.

The Board is comprised of a Chairperson, three members appointed by the Minister in accordance with the *Health Professions Boards (Procedures) Act 1981*, and three members elected by the profession in accordance with the *Health Professions Boards (Elections) Act 1980* giving a total of 7 on the Board.

Membership

Member (include title)	Position (eg Chair, Member)	Remuneration
Dr Brian Mor, BDS, MDS, FICD	**Chair**	**Nil**
Dr Carmelo Bonnano, BDS	**Member**	**Nil**
Dr Amanda McKeown, BDS	**Member**	**Nil**
Dr Desmond Storey, BDS	**Member**	**Nil**
Mr David Trigger, BDS	**Member •**	**Nil**
Dr Stephen Dahlstrom, BDS	**Deputy Chair**	**Nil**
Dr Peter Walmsley, BDS, MDS	**Member**	**Nil**

Dental Technicians and Dental Prosthetists Board of the ACT
Established under: *Dental Technicians and Dental Prosthetists Registration Act 1988*
Date established: 1988
Terms of operation: *Dental Technicians and Dental Prosthetists Registration Act 1988*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Dental Technicians and Dental Prosthetists Registration Act 1988* and:

- register suitably qualified dental technicians and dental prosthetists to enable them to practise in the ACT;
- discipline registered dental technicians and dental prosthetists, after due inquiry on specific groqnds through suspension/cancellation of registration or reprimanding the person;
- consideration of complaints against registered dental technicians or dental prosthetists and reviewing accounts; and
- general monitoring of the conduct of the profession in the ACT.

The Board consists of a Chairperson and two (2) members who are dental prosthetists, two (2) members who are dental technicians and one person who is not entitled to registration as a health professional all appointed by the Minister for Health, Housing and Community Services in accordance with the *Dental Technicians and Dental Prosthetists Registration Act 1988* giving a total of six (6) on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Mr Terry McHugh	**Chair**	**Nil**
Ms Julia Collins	**Deputy Chair**	**Nil**
Mr Tony Eames	**Member**	**Nil**
Mr Christopher McCarthy	**Member**	**Nil**
Mr Christopher Lathbury	**Member Community Rep.**	**Nil**
Mr John Tomas	**Member**	**Nil**

ACT Disability Advisory Council
Established under: Commonwealth State Disability Agreement
Date established: Nov 1999
: Commonwealth State Disability Agreement
Reports to: Minister for Health, Housing & Community Services
Terms of Reference

The role of the ACT Disability Advisory Council (the Council) is to provide advice to the Minister for Health, Housing and Community Services (the Minister) on matters relating to people with disabilities.

The Council will be asked for advice on a range of matters that may include:
- Promoting the rights of people with disabilities;
- Service provisicin to people with disabilities;
- The impact 6f legislation on people with disabilities; and
- Issues of access and equity.

The Council focuses its advice on the key elements of the current Strategic Plan for Disability Services and its related Action Plan, and/or on other matters agreed between the Minister and the Council.

In order to provide advice to the Minister, the Council actively seeks out the views of people with disabilities and of others who are involved in supporting people with disabilities with the community. The council is guided in its consultations by the ACT Government's *Consultation Protocol*.

The Council consists of seven members, including a Chair, all of whom are appointed by the Minister. At least four representatives are to be people with disabilities. The remaining membership may include carers, families and friends of people with disabilities, people with an interest and expertise in disability matters and service providers. There should be no more than two service provider members. Representatives from the ACT Department of Health, Housing and Community Care and the Commonwealth Department of Family and Community Services are to be ex officio members.

The following attributes are sought in the Council as a whole:
- A strong commitment to the best interests of people with disabilities and to the work of the Council;
- A breadth of knowledge and information on disability issues and disability service provision; An understanding of the disability services sector in the ACT;
- The ability to develop and complete a workplan in line with the Minister's requirements for advice; and
- Breadth of membership representing the diversity of the community, including gender balance.

Appointments are for a period of two years and are not normally be extended.

Membership

Member	Position	Remuneration
Mr Robert Altamore	**Chair**	**Nil**
Mr Craig Wallace	**Deputy Chair**	**Nil**
Ms Diane McCrea	**Member**	**Nil**
Ms Margaret Spalding	**Member**	**Nil**
Ms Diane McGown	**Member**	**Nil**
Ms Gale Sweeney	**Member**	**Nil**
Ms Kim Jackson	**Member**	**Nil**

ACT Health and Community Care Ethics Committee
Established under: *Health Services Act 1990 (S21)*
Date established: 30 April 1991
Terms of operation: National Health and Medical Research Council, National Statement on Ethical Conduct in Research Involving Humans (June 1999)
Reports to: Minister for Health Housing and Community Services

Terms of Reference

To consider ethical implications of all proposed research projects that involve clients or staff of the Health and Community Care Portfolio and to determine whether or not they are acceptable on ethical grounds.

To provide the surveillance and monitoring of research projects until completion so that the Committee maybe satisfied that they continue to conform with approved ethical standards.

To maintain a record of all proposed research projects, so that the following items of information are readily available:

- Name of responsible Institution;
- Notification of Indemnity;
- Project identification number;
- Principal Investigator(s);
- Short title of project;
- Ethical approval or non-approval with date; and
- Dates designated for review.

(The protocols of research projects shall be preserved in the form in which they are approved.)

To establish and maintain communication with the National Health and Medical Research Council (NH&MRC) Australian Health Ethics Committee and provide access, upon request, to information in the Ethics Committee's records.

To consider, and provide advice, on ethical considerations associated with issues referred to it by the Minister or the community.

The Committee to be appointed by the Minister for Health, Housing and Community Services for a period of three years.

Membership

Member (include title)	Position (e Chair, Member)	Remuneration
Ms Elizabeth Grant AM	**Chair**	**Nil**
Ms Sue Alexander	**Member**	**Nil**
Ms Anne Gardner	**Member**	**Nil**
Mr Vincent Sharma	**Member**	**Nil**
Mr Justin Keller	**Member**	**Nil**
Associate Professor Nicholas Glasgow	**Member**	**Nil**
Associate Professor Robin Stuart-Harris	**Member**	**Nil**
Dr Howard Bath	**Member**	**Nil**
Reverend Elaine Farmer	**Member**	**Nil**
VACANT	**Member**	

ACT Health Promotion Board
Established under: *Health Promotion Act 1995*
Date established: 1995
Terms of operation: *Health Promotion Act 1995*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

Health Promotion Act 1995

"Part II - ACT Health Promotion Board"
Division 1 - Establishment, functions and powers

Section 4. Establishment

(1) The ACT Health Promotion Board is established by this Act.

(2) The Board -
(a) is a body corporate with perpetual succession;
(b) shall have a common seal;
(c) may sue and be sued in its corporate name; and
(d) is an agency of the Crown.

Section 5. Functions

The functions of the Board are as follows:
(a) the funding of activities related to the promotion of good health, safety and the prevention or early detection of disease;
(b) the promotion of good health in the community through the sponsorship of sports, recreation and arts activities, and cultural activities generally;
(c) the encouragement of healthy lifestyles and the support of activities involving participation in healthy pursuits;
(d) the promotion of the community capacity to support its own good health, through self-supporting activities;
(e) the promotion of good health through intersectoral collaboration;
(f) the performance of any other functions conferred by this or any other law of the Territory;
(g) the funding of research and development activities in support of the functions referred to in paragraphs (a) to (f) (inclusive).

Section 6. Powers

(1) The Board has power to do all things necessary or convenient to be done in relation to the performance of its functions.

(2) Without limiting the generality of subsection (1), the Board may, in order to perform its functions-
(a) make grants;
(b) enter into contracts;
(c) produce and market goods and services;
(d) acquire, deal with and dispose of real and personal property;
(e) appoint funding committees, chaired by members of the Board, to furnish advice to the Board about applications for funding;

(f) appoint other committees and working groups to assist the Board; and
(g) do anything else incidental to that performance.

(3) The Board may, by writing under its common seal, delegate any of its powers to a member of the Board or to a public servant.

Division 2 - Membership

Section 8. Membership

(1) The Board shall have 9 members, as follows:
(a) a Chairperson;
(b) a member with expertise in business or accountancy;
(c) a member with expertise in media or communications;
(d) a member with expertise in employee relations or occupational health and safety; (e) a member with expertise in community health;
(f) a member with expertise in environmental health;
(g) a member with expertise in sport or recreation;
(h) a member with expertise in the arts or culture generally;
(j) a public servant member.

(2) The Minister shall, by instrument, appoint a Deputy Chairperson from among the members of the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Mr Robert de Castella	**Chair**	**$7,000 per annum**
Ms Joan Young	**Member**	**$235 per diem**
Mr Jeremy Lasek	**Member**	**$235 per diem**
Ms Margaret Head	**Member**	**$235 per diem**
Ms Simone Dilkara	**Member**	**$235 per diem**
Ms Marie Jamieson	**Member**	**$235 per diem**
Ms Antoinette Harmer	**Member**	**$235 per diem**
Mr Richard Refshauge	**Member**	**$235 per diem**
Dr Shirley Bowen	**Member**	**Nil**

Housing Advisory Committee
Established under: *Ministerial appointment*
Date established: 7 April 1997 *Term of operation:* N/A
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

Advise the Minister for Housing on strategic aspects of housing in the ACT, and in particular housing assistance issues, housing industry issues and related consumer issues.

Membership
*** Currently in the process of appointing ***

Member (include title)	Position (eg Chair, Member)	Remuneration
Ms Christine Purdon	**Chair**	**Nil**
Ms Meredith Hunter	**Member**	**Nil**
Ms Ginny Hewlett	**Member**	**Nil**
Mr Neil Harrigan	**Member**	**Nil**
Ms Cathi Moore	**Member**	**Nil**
Mr Howard Pender	**Member**	**Nil**
Mr David Webster	**Member**	**Nil**
Mr Richard Percival	**Member**	**Nil**
Ms Glenys Beauchamp	**Member (Ex officio)**	**Nil**
Mr Bob Hutchison	**Member (Ex officio)**	**Nil**

Housing Review Committee
Established under: *Commonwealth State Housing Agreement of 1989*
Date established: 1989 *Terms of operation:* N/A
Reports to: Commissioner for Housing

Terms of Reference

Review any appeals against housing assistance decisions made by the Commissioner for Housing. Advise the Commissioner in writing of the review, recommending with reasons how each appeal should be resolved. Provide advice to the Commissioner for Housing on the impact of policies and procedures as a result of matters arising out of the Committee hearings.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Mr Bill Percy	**Chair**	**$300 per diem**
Ms Ann Foley	**Member**	**$250 per diem**
Ms Meredith Hunter	**Member**	**$250 per diem**
VACANT	**Member**	**$250 per diem**
Ms Sherry1 Allen	**Member**	**$250 per diem**
Ms Jacqui Pearce	**Member**	**$250 per diem**
Ms Trish McDonald	**Member**	**$250 per diem**
Mr Michael The	**Member**	**$250 per diem**
Ms Helen Uhe	**Member**	**$250 per diem**

Medical Board of the ACT
Established under: *Medical Practitioners Act 1930*
Date established: 1930
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Medical Practitioners Act 1930* and:

- register suitably qualified medical practitioners to enable them to practise in the ACT;
- discipline medical practitioners, after due inquiry on specific grounds through suspension/cancellation of registration, cautioning or reprimanding the practitioner, ordering the practitioner to seek or undergo medical or psychiatric treatment or counselling, imposing on the practitioner's registration such conditions relating to the practise of medicine as it considers appropriate, ordering the practitioner to complete specified educational courses, ordering the practitioner to report on his/her medical practice at the times, in the manner and to persons nominated by the Board or ordering the practitioner to seek and follow advice, in relation to the management of his/her medical practice from persons specified by the Board;
- consideration of complaints against registered practitioners and reviewing accounts for fees for medical services; and
- general monitoring of the conduct of the profession in the ACT.

The Board comprises a Chairperson and three professional members, plus two community representatives one of whom must be a solicitor appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures) Act 1981* and three members elected by the profession registered in the ACT in accordance with the *Health Professions Boards (Elections) Act 1980* giving a total of nine (9) on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Dr Heather Munro	**Chair**	**Nil**
Dr Tony Sangster	**Member**	**Nil**
Dr Lybus Hillman	**Member**	**Nil**
Dr Brenda Tait	**Member**	**Nil**
Dr Hilton Stone	**Elected Member**	**Nil**
Dr Robert Lones	**Elected Member**	**Nil**
Dr Stephen Bradshaw	**Elected Member**	**Nil**
Mr Ian Curlewis QC	**Member**	**Nil**
Ms R Chenoweth Rieteke	**Member**	**Nil**

Mental Health Advisory Committee
Established under: *Ministerial appointment*
Date established: July 2000
Terms of operation: *N/A*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

The role of the ACT Mental Health Advisory Council (the Council) is to provide policy advice to the Minister for Health, Housing and Community Services (the Minister) on matters relating to mental health consumers and carers.

The Council will be asked for advice on a range of matters that may include:
- Mental health service policy and planning;
- Service provision to mental health consumers and carers;
- Promoting the rights of mental health consumers and carers;
- The impact of legislation on mental health consumers and carers; and
- Issues of access and equity.

The Council consists of nine members, including the Chair. At least four representatives are mental health consumers. The remaining membership may include carers, families and friends of mental health consumers, people with an interest and expertise in mental health matters and service providers. Members of the Council are appointed as individual consumers, carers and community members who represent as far as possible, the interests of each group as a whole. They are not representatives of any specific community organisation. Representatives from the ACT Department of Health, Housing and Community Care are exofficio members.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
VACANT	**Chair**	**Nil**
Cinmayii	**Member**	**Nil**
Ms Aine Tierne	**Member**	**Nil**
Ms Virginia Davies	**Member**	**Nil**
Ms Rhonda Woodward	**Member**	**Nil**
Ms Brankica Trajkovski	**Member**	**Nil**
Ms Kim Werner	**Member**	**Nil**
Ms Annette Atherton	**Member**	**Nil**
Mr Stephen Price	**Member**	**Nil**

Nurses Board of the ACT
Established under: *Nurses' Act 1988*
Date established: 1988
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health,. Housing and Community Services

Terms of Reference

The Nurses' Board (the Board) of the Australian Capital Territory is established by section 6 of the Nurses' Act 1988 (the Act). It is an autonomous body with perpetual succession and a common seal, and has its powers and responsibilities prescribed by the Act.

The Board administers the Act which provides for the registration and enrolment of nurses, the supervision cff ntarsing education and standards and for related purposes. The Board has the responsibility for approving the registration or enrolment of suitably qualified nurses who wish to practice in the Territory as well as monitoring safe practice by those persons.

Under the Act the Board is empowered to exercise a number of disciplinary actions in respect of a nurse which include cancellation or suspension of registration or enrolment, caution or reprimand. The Board can also order that the nurse undergo medical or psychiatric treatment or counselling, impose conditions on the nurse's registration or enrolment, require the nurse to seek and follow advice in respect of his or her nursing practice or require the nurse to complete specified educational courses.

Prior to imposing of any sanctions the Board is required to hold an Inquiry into the conduct of the nurse. Where a nurse is aggrieved by a decision of the Board to cancel or suspend registration or to impose sanctions there are provisions under the Act for the person to make an application to the Administrative Appeals Tribunal for a review of the Board's decision.

Membership

Member (include title)	Position (eg Chair, Member)	Remuneration
Ms Margaret Proctor	**Member**	**Nil**
Mr Anthony Noakes	**Deputy Chair**	**Nil**
Ms Jill Parke	**Member**	**Nil**
Ms Meg Moxon	**Member**	**Nil**
Mrs Susan Gosling	**Member**	**Nil**
Ms Ellen O'Keeffe	**Elected Member**	**Nil**
Ms Janice Talor	**Elected Member**	**Nil**
Ms Rebecca Vanderheide	**Member**	**Nil**
Ms Mary Kirk	**Elected Member**	**Nil**

Optometrist Board of the ACT
Established under: *Optometrists Act 1956*
Date established: 1956
Terms of operation: Health Professions Boards (Procedures) Act 1981
Reports to: **Minister for Health, Housing and Community Services**

Terms of Reference

To administer the *Optometrists Act 1956* and:

- register suitably qualified optometrists to enable them to practise in the ACT;

- discipline practitioners, after due inquiry on specific grounds through suspension/cancellation of registration, cautioning or reprimanding the person, ordering the toptometrist to seek or undergo medical or psychiatric treatment or counselling, or imposing on the optometrist's registration such conditions relating to the practise of optometry as it considers appropriate;

- consideration of complaints against registered practitioners and review of accounts or fees; and

- general monitoring of the conduct of the profession in the ACT.

The Board comprises the Chairman and one other member appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures) Act 1981* and one member elected by the profession registered in the ACT in accordance with the *Health Professions Boards (Elections) Act 1980* giving a total of three (3) on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Ms Joanne Thomas	**Chairperson**	**Nil**
Mr Dennis Langley	**Appointed Member Deputy Chair**	**Nil**
Mr Andrew Watkins	**Elected Member**	**Nil**

Pharmacy Board of the ACT
Established under: *Pharmacy Act 1931*
Date established: 1931
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, .Housing and Community Services

Terms of Reference

To administer the *Pharmacy Act 1931* and:

- register suitably qualified pharmacists to enable them to practise in the ACT;

- discipline practitioners, after due inquiry on specific grounds through suspension/cancellation of registration, cautioning or reprimanding the person, ordering the pharmacist, to seek or undergo medical or psychiatric treatment or counselling, imposing on the pharmacist's registration such conditions relating to the practise of pharmacy as it considers appropriate, ordering the pharmacist to seek and follow advice, in relation to the management of his/her pharmacy practice from persons specified by the Board or ordering the pharmacist to complete specified educational courses;

- consideration of complaints against registered practitioners; and

- general monitoring of the conduct of the profession in the ACT.

The Board comprises a Chairperson and three members appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures) Act 1981* and three members elected by the profession registered in the ACT in accordance with the *Health Professions Boards (Elections) Act 1980* giving a total of seven (7) on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Vacant*	**Chairperson**	**Nil**
Vacant*	**Appointed Member**	**Nil**
Vacant*	**Appointed Member**	**Nil**
Vacant*	**Appointed Member**	**Nil**
Mr Graeme Watson	**Elected Member**	**Nil**
	Deputy Chairperson	
Mr Patrick Develin	**Elected Member**	**Nil**
Mr John Gregan	**Elected Member**	**Nil**

* Appointments expired 3 June 2001, negotiations for reappointment underway.

Physiotherapists Board of the ACT
Established under: *Physiotherapists Act 1977*
Date established: 1977
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Physiotherapists Act 1977* and:

- register suitably qualified physiotherapists to enable them to practise in the ACT;
- discipline registered physiotherapists, after due inquiry on specific grounds through suspension/cancellation of registration or reprimanding the person;
- consideration of complaints against registered physiotherapists and reviewing accounts; and
- general monitoring of the conduct of the profession in the ACT.

The Board comprises a Chairperson and three members appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures) Act 1981* and three members elected by the profession registered in the ACT in accordance with the *Health Professions Boards (Elections) Act 1980* giving a total of seven on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Ms Anne Davies	**Chair**	**Nil**
Ms Karen Murphy	**Elected Deputy Chair**	**Nil**
Ms Christina Bolger	**Member**	**Nil**
Ms Elizabeth Trickett	**Member**	**Nil**
Ms Toni Green	**Elected Member**	**Nil**
Ms Jennifer Scarvell	**Member**	**Nil**
Annette Cursley	**Temporary Appointment**	**Nil**

Podiatrists Board of the ACT
Established under: *Podiatrists Act 1994*
Date established: 1994
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Podiatrists Act 1994* and:

- register suitably qualified persons to practise as podiatrists in the ACT;
- discipline registered podiatrists, after due inquiry on specific grounds through suspension/cancellation of registration, cautioning or reprimanding the person, ordering the podiatrist to seek or undergo medical or psychiatric treatment or counsellipg, or imposing on the podiatrist's registration such conditions relating to the practise of podiatry, requiring the podiatrist to complete specified educational courses or order that the podiatrist seek and follow advice, in relation to his or her practise , from persons specified by the Board as it considers appropriate;
- consider complaints against registered podiatrists;
- general monitoring of the conduct of the profession in the ACT.

The Board comprises a Chairperson and three persons who are entitled to registration under the Act (professional members) and a community representative The community representative is not entitled to be registered under any of the health registration Acts. All five (5) members are appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures)Act 1981*.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Ms Sandra Moffat	**Chair**	**Nil**
Ms Louise Volk	**Deputy Chair**	**Nil**
Ms Llois Cutts	**Member**	**Nil**
Ms Janet Wall	**Member**	**Nil**
Ms Susan Nancarrow	**Member**	**Nil**

Psychologists Board of the ACT
Established under: *Psychologists Act 1994*
Date established: 1994
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Psychologists Act 1994* and:

- register suitably qualified persons to practise as psychologists in the ACT;
- discipline registered psychologists, after due inquiry on specific grounds through suspension/cancellation of registration, cautioning or reprimanding the person, ordering the psychologist to seek or undergo medical or psychiatric treatment or coqnselling, or imposing on the psychologist's registration such conditions relating to the practise of psychology, requiring the psychologist to complete specified educational courses or order that the psychologists seek and follow advice, in relation to his or her practise , from persons specified by the Board as it considers appropriate;
- consider of complaints against registered psychologists;
- general monitoring of the conduct of the profession in the ACT.

The Board comprises a Chairperson and five persons who are eligible for registration under the Act (professional members) and a community representative. The community representative is not entitled to be registered under any of the health registration Acts and should not be engaged in a profession or business which employs psychological practices. All 7 members are appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures) Act 1981*.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Professor Donald Byrne	**Chair**	**Nil**
Col. Wallace Hall	**Deputy Chair**	**Nil**
Dr Consuelo Barreda-Hanson	**Member**	**Nil**
Ms Adele Hamilton	**Member**	**Nil**
Mr Marshall O'Brien	**Member**	**Nil**
Mr Thomas Sutton	**Member**	**Nil**
Dr Maura O'Brien	**Member**	**Nil**

Radiation Council of the ACT
Established under: *Radiation .Act 1983.*
Date established: 1983
Terms of operation: *Radiation Act 1983*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

Under the *Radiation Act 1983*, the Radiation Council is responsible for:

• Granting licences in relation to the use of radioactive material and irradiating apparatus.

• Granting registrations for irradiating apparatus.

• Granting approvtal for.the disposal, transportation and storage of radioactive material.

Directing licensees in situations where the health of their employees or members of the public may be at risk from ionising radiation exposure.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Mr Joseph Lisin g	**Chair**	**Nil**
Mr Anthony Agostino	**Member (Deputy Chair)**	**Nil**
Mrs Jean I Bennett	**Member**	**$250 per diem**
Dr L Keith Fifield	**Member**	**Nil**
Radiologist (VACANT)	**Member**	

Sexual Health, AIDS/HIV, Hepatitis C and Related Diseases Ministerial Advisory Council

Established under: Ministerial appointment
Date established: 22 March 2001
Terms of operation: N/A
Reports to: Minister for Health, .Housing and Community Services

Terms of Reference

The ACT Ministerial Advisory Council on Sexual Health, AIDS/HIV, Hepatitis C and Related Diseases (SHAHRD) has been appointed to provide advice from consumer and community perspectives to the Minister for Health, Housing and Community Care on issues related to the health and well-being of ACT residents in the areas of sexual health and blood borne diseases.

The-Terms of Referance for the SHAHRD Council are as follows:

> (1) To inform itself about the epidemiology and emerging issues in the area of sexual health and blood borne diseases; and
>
> (2) To consider options and strategies for minimising the transmission and harmful effects of sexually transmissible infections and blood borne viruses, with the objective of providing advice as required to the Minister on prevention, treatment and care issues to improve the health and well-being of all ACT residents in the areas of sexual health and blood borne diseases.

In addressing these Terms of Reference, the SHAHRD Council will actively seek advice and reports from other experts and groups on issues relating to its work, including the views of people affected by, or living with, sexually transmissible infections and blood borne viruses, and the views of others involved within the community. The Council will be guided in it's consultation processes by the ACT Government's *Consultation Protocol*.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Mr Richard Refshauge	**Chair**	**Nil**
Ms Gaye McPartlan	**Member**	**Nil**
Mr Daniel Coase	**Member**	**Nil**
Ms Ruth Verzeilber	**Member**	**Nil**
Ms Elissa O'Keefe	**Member**	**Nil**
Dr Clare Willington	**Member**	**Nil**
Dr Francis Bowden	**Member**	**Nil**
Mr Andrew Seymour	**Member**	**Nil**
Mr Fred Wensing	**Member**	**Nil**

Veterinary Surgeons Board of the ACT
Established under: *Veterinary Surgeons Act 1965*
Date established: 1965
Terms of operation: *Health Professions Boards (Procedures) Act 1981*
Reports to: Minister for Health, Housing and Community Services

Terms of Reference

To administer the *Veterinary Surgeons Act 1965* and:

- register suitably qualified veterinary surgeons and veterinary specialists to enable them to practise in the ACT;
- discipline practitioners, through reprimand, suspension/cancellation of registration after due inquiry on specific grounds;
- consider complaints against registered practitioners; and general monitoring of the conduct of the profession in the ACT.

The Board comprises a Chairperson and two members appointed by the Minister for Health, Housing and Community Services in accordance with the *Health Professions Boards (Procedures) Act 1981* and two members elected by the profession registered in the ACT in accordance with the *Health Professions Boards (Elections) Act 1980* giving a total of five (5) on the Board.

Membership

Member (include title)	**Position (eg Chair, Member)**	**Remuneration**
Dr Richard Chapman	**Chair**	**Nil**
Dr John Aspley-Davis	**Elected Deputy Chair**	**Nil**
Dr Lorna Citer	**Member**	**Nil**
Dr Kevin Doyle	**Member**	**Nil**
VACANT	**Elected Member**	**Nil**

Centre for Local Government Studies—consultancies (Question No 384)

Mr Corbell asked the Minister for Urban Services, upon notice:

In relation to the engagement of the Centre for Local Government Studies to consult on ACTCODE No 2:

(I) Was there a public tender for the consultancy.

(2) If not, why not.

(3) Is the centre on a list of prequalified consultants.

(4) What is the total value of the consultancy to date.

(5) What is the projected cost of the remaining work under the consultancy.

(6) What previous consultancy work has the centre undertaken on behalf of Planning and Land Management (PALM).

(7) What background does the centre have in urban planning issues.

Mr Smyth: The answer to the member's question is as follows:

In relation to the engagement of the Centre for Local Government Studies to consult on ACTCode No 2:

1) Was there a public tender for the consultancy?

The consultants were engaged, initially to deliver an ACTCode training program, through a single select tender process in accordance with ACT Government Purchasing Policy outlined in the ACT Government Purchasing Circular 2000/2 SELECT TENDERS.

2) If not, why not?

The proposed Policies for Residential Development, including ACTCode, were released for information purposes on 4 October 2000. It was anticipated at the time that the documents would be released formally as a draft Variation to the Territory Plan early in 2001. PALM required staff and industry training for the revised residential policies in time for their introduction as a draft Variation with interim effect.

This work could not commence until January 2001 when the final content of the proposed draft variation and the release date in March 2001 had been determined. The consultants had to design and deliver the training program within a ten week period.

Achieving the stringent timetable set for the program required a team of skilled trainers with qualifications in planning and architecture, a sound working knowledge of the subject, and a thorough understanding of the ACT planning processes and staff skills. It was decided that a tertiary institution with a very strong

background in urban planning would provide the best service, in that it would have the training skills, the necessary accreditation, and the subject knowledge.

The Centre for Local Government Studies (part of the University of Technology in Sydney) was judged to be the only suitable service provider because:

a) it runs courses similar to those required and has a detailed working knowledge of current ACT planning processes, structures and issues and the Australian Model Code for Residential Development (AMCORD).

b) The tertiary institutions in Canberra (UC, ANU and CIT) do not currently offer a course of this type. Whilst RMIT in Melbourne have had involvement in national AMCORD training and have developed similar courses, they do not have any recent experience with the ACT planning system.

The consultants very successfully completed the required training program within the specified timeframe. However, the Assembly requested that the Draft Residential Policies be released for a further round of public consultation, but not in the form of a draft Plan Variation. The timetable for the consultation program and the need to reach as many individuals, groups and organisations in the community, in the most effective way, were key considerations. PALM considered, on balance, that it would be sensible to use the consultants who had delivered the training program to facilitate a series of workshops and discussions and assist in the communication program. The consultants had developed a very detailed knowledge of the issues associated with the draft policies and were well placed to help engage all sectors of the community in a participative review process.

3) Is the centre on a list of prequalified consultants?

The Centre is not included on the ACT Government (Urban Services) prequalification register. This register is a database for the prequalification scheme administered by the Construction Industry Policy Unit of ACT Procurement Solutions and is used principally for consultants and contractors undertaking the Capital Works program.

4) What is the total value of the consultancy to date?

The total value of the training and facilitation consultancies is $113,141+GST. Of this, some $109,841 has been expended to date. The break up of the consultancy is as follows:

(a) training program: $69,791 + GST.

(b) 3 month public consultation program, including preparation of informational resources and facilitation of workshops for the community and industry: (an additional cost over (a) above) $43, 350 + GST

from early June 2001

5) What is the projected cost of the remaining work under the consultancy?

Work remaining includes two industry workshops and one community workshop which are to be run in early July. The cost of these is projected to be $3,300.

6) What previous consultancy work has the centre undertaken on behalf of Planning and Land Management (PALM)?

The Centre has undertaken the following consultancy work on behalf of Planning and Land Management:

- Review of Part A of the Territory Plan - General Principles and Policies;
- Development Assessment System Review; Provision of advice and training in relation to development processing; and Preparation and Facilitation of the Development Assessment Forum.

7) What background does the centre have in urban planning issues?

The Centre is an independent, cross-faculty Centre within the University of Technology, Sydney. It conducts projects, research and consultancies for local, State and Federal Government bodies in a number of urban planning related areas including: reform of planning legislation and processes; integrated strategic local planning; and the development of urban planning models.

The particular areas of expertise of the Centre's Associate Professor and Director, Graham Sansom include strategic and corporate planning, environmental and natural resource management, community development and intergovernmental relations. He has extensive experience as a planner in a local government context and a depth of knpwledse about Canberra. Associate Professor Sansom was for several years Chief Executive of the Australian Local Government Association.

The Centre is supported by a network of professional and academic associates, which include urban planning and architectural disciplines. In addition to Mr Sansom, associates working on the team to design and deliver the training program and/or facilitate the workshops for the ACTCode consultation program included Mr Greg Vickas, Mr Peter Walsh, and Dr Danny Wiggins.

Mr Vickas is a chartered architect, planning consultant and licensed builder with twenty years experience in local government development and building matters. He has worked as a heritage adviser and urban design adviser for a number of Sydney local councils and for the community. He is also an experienced architectural design and planning lecturer and has developed and delivered many training workshops on performance based codes throughout NSW. His work in mediation for the development control process on behalf of local councils and the community, is a valuable asset to the training team.

Mr Walsh, a planner and surveyor, has extensive experience in the development approval process, providing operational and strategic advice on reform opportunities at national, state and local levels of government. In addition, his expertise in subdivision planning and design makes a valuable contribution to the team.

Dr Wiggins is a planner with extensive experience in Local Government and in consultancy work. He has played a key role in the Centre's training programs for Local and State Government clients. He is regarded as a leading specialist in assessment processes and has a strong background-in urban design issues.

Diagnosis of Autism
(Question No 385)

Mr Wood asked the Minister for Health, Housing and Community Services, upon notice, on 15 June 2001:

In relation to diagnosis for autism:

(1) Why does it take more than six months to begin the diagnosis process for a child suspected of having autism spectrum disorder.

(2) Why does confirmation of diagnosis often take up to twelve months.

(3) Are children often denied appropriate therapy and educational settings until that diagnosis is provided.

(4) What is proposed to improve the situation.

Mr Moore: The answer to Mr Wood's question is:

(1) Rapid increase in the number of children presenting for assessment for autism spectrum disorder has placed very high demands on current resources resulting in waiting times exceeding six months.

(2) Some cases are complex and require more time for accurate diagnosis.

(3) Children suspected of baying autism spectrum disorder can access a wide range of therapy and education services. These are based on the needs of each child. No child is ever denied access to services.

(4) The following processes are in place to improve the situation:

- Child Health and Development Service and Child and Adolescent Mental Health Service are working together to provide a multidisciplinary diagnostic service for children suspected of having autism spectrum disorder; and

- Both services are investigating best practice models to help improve the speed and accuracy of the diagnostic process.

Older persons units
(Question No 386)

Mr Wood asked the Minister for Health, Housing and Community Services, upon notice:

In relation to the 1998 Government commitment to supply 200 older persons units over a period of three years, how is that commitment being met.

Mr Moore: The answer to the member's question is:

The Government has fulfilled its 1998 commitment to supply 200 units of older persons accommodation (OPAs) over the three years to 2000-01. Of this commitment, 30 were acquired (built or purchased) in 1998-99; a further 112 were acquired in 1999-2000; and the balance was acquired in 2000-2001.

The opening of the 200th OPA was celebrated on 28 June 2001.

Recently, the Government also announced that 200 units of accessible housing would be provided over the next three years. This housing would be able to meet the needs of older persons as well as other special needs groups.

The provision of housing suitable for older persons is an important element of the Government's strategy to restructure the public housing stock, to better match housing stock to the needs of tenants and applicants and to improve the general standard of accommodation across the portfolio.

Road-related infrastructure (Question No 387)

Mr Hargreaves asked the Minister for Urban Services, upon notice:

In relation to the installation and maintenance of road related infrastructure:

In the years (a) 1995-96, (b) 1996-97, (c) 1997-98, (d) 1998-99, and (e) 1999-00, how much was spent on:

(1) the installation and maintenance of (a) streetlights and (b) guard rails:
(2) line marking; and
(3) grass cutting.

Mr Smyth: The answer to the member's questions is as follows:

Analysis of financial records held within the Department reveals the expenditure contained in the table below:

Activity	**Type**	**1995-96**	**1996-97**	**1997-98**	**1998-99**	**1999-00**
Streetlights	Recurrent	2,593,905	2,466,856	2,535,610	2,510,129	2,917,870
	Capital	118,000	48,000	34,000	155,000	150,000
Traffic Route Lighting	Capital	180,000	123,000	26,000	0	300,000
Guard Rails & Barriers	Recurrent	(1)	(1)	46,275	34,009	65,575
	Recurrent (Streetsmart)	(2)	(2)	(2)	122,974	554,112
	Capital	(3)	(3)	(3)	(3)	127,000
Line Marking	Recurrent	<$100,000 (4)	<$100,000 (4)	600,000 (4)	600,000 (4)	789,854
	Capital	0	0	0	0	300,000
Grass Cutting		(5)	(5)	(5)	(5)	(5)

Notes:

(1) Not known as any costs are included in larger Maintenance jobs.
(2) Streetsmart program not in operation.
(3) Not known as any costs are included in larger Capital Works jobs.
(4) Estimated expenditure.
(5) Not known as grass cutting is by region and is not separated out by asset types such as roads.

Neighbourhood watch groups (Question No 388)

Mr Hargreaves asked the Minister for Police and Emergency Services, upon notice:

In relation to neighbourhood watch groups:

(1) How many neighbourhood watch groups are in the ACT.
(2) Where is each neighbourhood watch group located.
(3) How much money was allocated to neighbourhood watch in

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99;
(e) 1999-00; and
(f) 2000-01.

Mr Smyth: The answer to Mr Hargreaves' question is as follows:

(1) The basic unit of Neighbourhood Watch is the "area". There are currently 66 active areas in the ACT.

(2) There are Neighbourhood Watch areas located in:

Cook, Aranda, Bruce, Macquarie, Emu Ridge, Evatt, McKellar, Florey, Melba, Flynn, Giralang, Kaleen, Hall, Higgins, Macgregor, Charnwood, Holt, Ngunnawal, Nicholls, Palmerston, Amaroo, Dunlop, Fraser, Hawker, Latham, Page, Scullin, Spence, Weetangera, Ainslie, Barton, Campbell, Dickson, Downer, Hackett, Kingston, Narrabundah, O'Connor, Reid, Turner, Watson, Chapman, Curtin, Deakin, Duffy, Garran, Griffith, Hughes, Lyons, Mawson, Pearce, Phillip, Red Hill, Rivett, Yarralumla, Holder, Weston, Fisher, Waramanga, Stirling, Gowrie, Fadden, Oxley, Richardson, Wanniassa and Kambah.

(3) No monies were allocated to Neighbourhood Watch between 1995-96 and 1999-00. $16,000 was allocated to ACT Policing for Neighbourhood Watch training programs in 2000-01 as part of the Crime Prevention Budget initiatives. Neighbourhood Watch has otherwise been funded solely through corporate sponsorship.

Respite care and carer services (Question No 389)

Mr Stanhope asked the Minister for Health, Housing and Community Services, upon notice:

In relation to respite care and carer services:

(1) How many respite places are currently available for use by people with acquired brain injury in the ACT.

(2) Please indicate the nature of the current services eg. long term or short term.

(3) What services or programs are currently (a) available and (b) being developed in the ACT to assist carers of people with acquired brain injury coping with challenging and/or aggressive behaviour from the person in their care.

(4) What programs and strategies are currently in place in ACT schools and colleges to assist students recovering from acquired brain injury in their transition back to mainstream education.

(5) Have there been any changes to measures currently in place to assist students in mainstream educational settings over the past year.

(6) How much money can a carer earn from paid employment before rental rebate rates are affected.

(7) How does this figure compare with Centrelink cut off points for earnings from paid employment for carers.

Mr Moore: The answer to the member's question is:

(1) The following respite places are currently available for carers of people with acquired brain injury:

- A centre based respite care service specifically targeted at people with acquired brain injury is provided at the Dorothy Sales Cottages in Hughes. This service offers one full-time respite care placement and is designed for people with high support needs.

- Additional centre based respite care options are available through the respite care program, Disability Program, ACT Community Care.

- Home based respite services provided by a range of community agencies funded under the Disability Services and Home and Community Care funding programs are available to carers of children and adults with acquired brain injury.

- During 2000-01 the ACT Government provided a total of $976,396 for provision of respite services in the ACT. In addition the ACT Government provides funding of $236,945 to organizations providing recreational and holiday programs

(2) In addition to respite care services, long-term accommodation services available to people with acquired brain injury include:

- 7 long-term supported accommodation places with a focus on rehabilitation are available at the Dorothy Sales Cottages.

- 4 long-term supported accommodation places provided by the National Brain Injury Foundation.

- 12 long-term supported accommodation places available in purpose built ACT Housing accommodation which was established to meet the needs of younger people in nursing homes. People with multiple disabilities, including acquired brain injury, fill the majority of these places.

- In addition to supported accommodation services specifically targeted to people with acquired brain injury, there is a range of community based services providing accommodation support, domestic support and personal care to people with disabilities, including people with acquired brain injury, in their own homes.

(3) Services or programs available or currently being developed to assist carers of people with acquired brain injury coping with challenging and/or aggressive behaviours, include:

- Professional services provided by ACT Community Care, including assessment, advice and support services provided by social workers, occupational therapists and psychologists and other professionals.

- A range of community based disability services including supported accommodation, respite care, community access and recreation, personal care and domestic assistance, as well as community and subsidized transport services.

- Funding of over $200,000 per annum is provided for respite care to carers of adults and children affected by mental illness/dysfunction.

- A crisis response, when required, for the safe management of challenging/aggressive behaviours, is provided by the Mental Health Crisis Team.

(3)(b) Services or programs currently being developed to support people with disabilities, include:

- Additional respite care services to mature or aging carers. An additional $1.69 million in recurrent funding under the Disability Services funding program is available to provide additional services to mature carers.

- In addition, there is new recurrent funding of approximately $600,000 under the Home and Community Care program, to expand personal care and domestic assistance to the frail aged, people with disabilities and their carers.

-

-
- During 2001-2 the National Brain Injury Foundation will receive additional recurrent funding of $51,085 for the provision of support and case management services for people with acquired brain injury. These services will build upon the existing support services provided by the National Brain Injury Foundation and the self-help group, Friends of the Brain Injured.

(4) Programs to assist students recovering from acquired brain injury in their transition back to mainstream education are tailored to individual student's needs. Support can include, but is not restricted to:

- Programs for students with chronic illness. This program provides liaison support for students with chronic illness and their immediate family. The program is staffed by a part-time teacher who coordinates tutor programs and establishes and maintains links between student, school and educational services.

- Part time attendance. Schools will tailor programs to suit students who are only able to attend School on a part time basis.

- Integration support. The itinerant teaching staff from the Integration Support Unit support the programs of students eligible for special schools/units who are enrolled in mainstream schools. .

- Distance education. By arrangements, ACT students unable to attend school for various reasons, including medical, can access the NSW Distance Education program.

(5) No changes have been made to measures currently in place to assist students in mainstream settings.

(6) There is no "income-free" zone as such for rent rebate recipients. Rent rebates are calculated as a percentage of household income. All assessable income of each resident in the dwelling is taken into account in this calculation, except where a non-tenant resident receives an income of less than $100 a week (this income is ignored). These arrangements apply equally to carers, although a Carer Allowance received from Centrelink is a non-assessable form of income for the purposes of the rent rebate scheme.

(7) See answer to (6) above.

Illicit drugs—treatment and overdose deaths (Question No 390)

Mr Stanhope asked the Minister for Health, Housing and Community Services, upon notice:

In relation to drug treatment, and overdose deaths:
1. How many fatal drug overdoses have occurred in the ACT this year.
2. Please provide a breakdown of these figures according to the type of drug used.
3. How many of the fatalities were people of Aboriginal or Torres Strait Islander descent.
4. How many ambulance call outs have attended drug overdose situations in the ACT this year.
5. How does this figure compare with the same time frame last year.
6. How many young people have completed the Ted Noffs rehabilitation program in the ACT since the opening of the centre in Watson.
7. How many young people are currently waiting to be admitted to the Ted Noffs program.
8. How many people are currently awaiting admission to (a) the Arcadia House detox facility and (b) Karrilika and how long is the standard delay between contacting the service and admission.
9. How many people are currently waiting to be accepted into each stream of the methadone program in the ACT.
10. What is the standard delay between contacting the service and admission to the program for each stream.
11. How many pharmacies in the ACT currently dispense methadone in a community setting and what measures are being taken to encourage more pharmacies to take part.

Mr Moore: The answer to the member's question is:

1-3. There have been four confirmed fatal overdoses in the ACT this calendar year. One additional suspected overdose death is awaiting toxicology. Of these five people, one has been confirmed as being indigenous, a further three as not being indigenous and another is unknown.

The drugs involved in the four overdoses for which toxicology has been completed were as follows:

- Amphetamines only;
- Heroin with non toxic level of benzodiazepines;
- Heroin with a non toxic level of alcohol;
- Polydrug (methamphetamine, benzodiazepines and methadone).

4/5. The total ambulance call-out figures for fatal and non-fatal overdoses are collated in financial years and are as follows.

Year	**Total overdoses**	**Heroin-related**
1998-99	1057	541
1999-00	1033	478
2000-01	999	323
(to end May 20010		

6/7. Since opening in early February the Ted Noffs Plan for Adolescent Life Management (PALM) program has graduated two residents through its three-month program. In total 19 young people have been admitted - seven of these are currently in residence (five female and two male). Formal graduation should not be used as the sole, or even the primary marker of the worth or success of programs for young,people who offen "cycle" through episodes of help seeking. In addition to the two graduates, a further six young people have stayed between 40 and 60 days within PALM. Currently there is one young woman on the waiting list. Clients are actively case-managed while awaiting admission.

8a. Arcadia House does not operate a formal waiting list. Prospective clients ring each morning to determine whether a bed is available. A bed is often available on the same day but demand for withdrawal services varies considerably.

8b. People seeking to access Karralika first undergo a face to face assessment to determine suitability for the program. If a client is assessed as suitable, they are placed on a waiting list and actively case-managed prior to admission. The waiting list is capped at 20 people and the length of time between acceptance to the program and commencement is currently around two weeks. Waiting time is affected by issues such as whether a client has undergone detoxification, is waiting to be released from prison or has other legal or financial issues needing resolution. The Department of Health, Housing and Community Care, in partnership with ADFACT, is currently undertaking a feasibility study into the possibility of expanding the number of beds available at Karralika.

9/10. There are no people waiting to enter any of the methadone streams. There is immediate access available for all methadone streams.

11. 18 Community Pharmacies currently dispense methadone in the ACT. The Government Alcohol and Drug Program has recently recruited an experienced methadone pharmacist from South Australia to work with ACT pharmacies to encourage them to participate in the program and offers training to pharmacy staff. The ACT Pharmacy Guild participates actively in the Methadone Advisory Committee and works with their members to encourage participation.

Aged care facilities
(Question No 391)

Mr Stanhope asked the Minister for Health, Housing and Community Services, upon notice:

In relation to aged care facilities in the ACT:

(1) How many places in the (a) Canberra Hospital, (b) Calvary Hospital or (c) other facility in the ACT are available for aged persons unable to be cared for at home.

(2) How many of these places are available for aged persons suffering from dementia.

(3) What is the cost to the aged person for accessing these facilities?

(4) What procedures are in place for transferring aged persons between the facilities.

(5) What procedures are in place for transferring aged persons between ACT facilities and similar facilities in New South Wales?

Mr Moore: The answer to the member's question is:

(l a) The Canberra Hospital (TCH) has 22 designated specialist beds in the Acute Care of the Elderly (ACE) Ward, Aged Care Unit for people over the age of 75 years.

TCH is an acute care teaching hospital and does not have specific respite care beds. On occasions situations arise where elderly patients present to the Emergency Department who do not ;equire admission for medical reasons, but cannot be cared for at home due to perceived risk to themselves or others. Where no alternative exists these patients are admitted to the ACE or other wards of the hospital while other accommodation and support options are explored.

Some patients are able to return home with the asgistance of a Community Aged Care Package.

If an elderly patient does not have a clinical condition requiring admission and if they can be maintained at home with nursing care and home help services a referral is made to Community Care (CC) Link in ACT Community Care.

(lb) As a general rule Calvary hospital does not admit patients if it is solely for the purpose of awaiting an aged care bed. The hospital will admit if there is a medical or surgical reason for the admission. However, Calvary will not discharge a patient if they were thought to be at risk if they were to go home or if they have insufficient services in place to go home to.

(lc) The Commonwealth is responsible for the funding of aged care facility beds and Extended Aged Care in the Home (EACH) packages. There are currently 654 high care places in Aged Care Facilities in the ACT, which includes 30 EACH packages; and 922 separate low care places. These are permanent positions. However, 69 of these beds are provisional allocations, meaning that not all the beds are as yet 'operational', due to factors such as awaiting building work to be completed.

In addition to these permanent places, there are 38 Commonwealth funded operational respite beds in the ACT, as well as another 12 beds which were allocated in the 2000 Aged Care Approvals Round but are awaiting building work being completed.

(2) Of the low and high care places, there are currently 239 Commonwealth funded places in residential aged care homes catering for people who suffer from dementia, and an extra 10 beds allocated in the 2000 Aged Care Approvals Round were provided for respite for people with dementia. These 10 beds will be opened once building work has been completed.

The Canberra Hospital has 2 purpose designed areas available to provide interim care for older persons without medical or surgical issues but requiring admission for challenging behaviour associated with dementia and delirium. If this facility is already occupied, the secure facilities of the acute Inpatient Psychiatric Unit may be utilised.

The ACT Department of Health, Housing and Community Care funds the Burrangiri Centre (which is operated by the Salvation Army) which provides emergency centre-based respite care. Burrangin has a weekday day care program as well as a specific Saturday dementia program. The centre is also funded for 15 beds for a residential respite program. The maximum stay in this program is 15 days, and one bed is kept free for emergency short-term respite.

'Dementia' is a blanket term for a group of illnesses or conditions which are associated with a progressive and usually irreversible loss of mental function. The most commonly known condition is Alzheimer's disease. Depending on the cause of the dementia, the individual's reaction to the illness, and the severity of the dementia will mean that very different care needs will be seen from individual to individual.

(3) **Low (hostel) level care residents, and people in extra service facilities** (facilities which offer hotel-type services such as higher quality meals) may be asked to pay an accommodation bond depending on their assets and the policy of the facility. The bond is an amount agreed between the resident and the care service, and there is no fixed formula for determining the bond. The bond is refunded when a person leaves the service (either to the person or their estate) less a maximum of $225.50 a month for up to five years.

People needing high care (nursing home care) may be asked to pay an accommodation charge, depending on their assets. This charge is agreed between the resident and the care service, is capped at $12.33 per day, set on a sliding scale depending on the resident's assets, and is not charged if the resident has assets of less than $24,500. The resident's home is not considered an asset if their partner or a dependant child is living in it.

Daily care charges also apply. All residents pay a basic fee, and depending on their income, may also be asked to pay an additional income tested fee. Means tested pensioners currently pay $23.00 a day and non-pensioners $28.73 a day. If the resident is asked to pay an additional income tested fee it will be no higher than $69.00 a day or the cost of the resident's care, whichever is lower. To pay the maximum fee the resident would need to have an annual income of over $61,500.

The Commonwealth Department of Health and Aged Care requires that once a patient has been resident in a public hospital for 35 days within the one inpatient episode, a clinical evaluation must be made as to their ongoing care type. Usually this is undertaken by the patient's treating clinician who makes a clinical decision about whether or not the patient is still receiving "acute care" within the defined sense of the term. If it is decided that the patient is no longer receiving "acute care" the patient is classified as a Nursing Home Type Patient (NHTP). If the patient is classified as NHTP the hospital then charges a daily nursing home fee of $29.65. This certification is reviewed every 30 days during the hospital stay.

Contrary to what may be expected from the terminology, designation of NHTP status of itself does not indicate that the patient meets the criteria for nursing home admission. This is determined by a review by the Aged Care Assessment Team within ACT Community Care. Processes are then put in place to seek a nursing home placement.

(4) Policies and procedures for transferring residents between aged care facilities are decided by the individual facility. The facility has a duty of care to it's residents to ensure their safety, and will make a decision at the time of transfer as to how the transfer will occur and whether that transfer will include an escort from the facility.

In the case of a routine, planned transfer, most facilities will arrange either for family, a facility vehicle, or a volunteer driver, to escort a resident to another facility (hospital, appointments, or another aged care facility). In the case of an emergency transfer, the facility will have a policy in place which will include calling an ambulance to the emergency, and if the transfer is due to the resident's behavioural status, would normally arrange for a member of staff to accompany the resident on the transfer.

The Canberra Hospital and Calvary Hospital both use the ambulance system if transferring patients between hospitals. If transferring to a residential aged care facility, the hospitals arrange for appropriate patient transport as part of the discharge planning process. This transport may be ambulance, but would more commonly be through members of the patient's family. Patients are transferred when medically stable and are fit for discharge from the acute hospital setting.

(5) The procedures for transferring aged persons between The Canberra Hospital and Calvary Hospital and other facilities in New South Wales depend on the patient's needs and the type of facility to which the patient is transferred. Patients transported from one hospital to another are transported by ambulance. Ambulance transport of ACT residents to NSW hospitals for treatment not available in the ACT is free of charge to the patient, but charged to the hospital. NSW hospitals are responsible for the cost of NSW residents requiring interstate ambulance transport and the hospital is responsible for the cost of ACT residents requiring interstate ambulance transport.

Traffic and parking infringement notices (Question No 392)

Mr Stanhope asked the Minister for Urban Services, upon noticce:

In relation to infringements:

(1) How many infringement notices were issued in the past 12 months for the following offences:
(a) driving with the prescribed concentration of alcohol in the blood;
(b) driving whilst licence suspended;
(c) driving an unregistered motor vehicle;
(d), negligent~driving;
(e) speeding;
(f) other moving traffic infringements, and
(g) parking infringements.

2. How many of these notices were paid.

3. What was the total revenue received from these payments.

4. How many of this type of infringement notice were withdrawn after representations were made by the person receiving the notice.

5. How many of this type of infringement notice were disputed and therefore referred to the courts.

6. How many drivers' licences were suspended as a result of non-payment of traffic infringement notices.

7. How many motor vehicle registrations were cancelled as a result of non-payment of infringement notices.

8. How many persons were.prosecuted or had traffic infringement notices issued because their licence or motor vehicle registration had been suspended or cancelled for non payment of traffic infringement notices.

Mr Smyth: The answers to the member's questions are as follows:

All answers relate to data for the period 1 March 2000 to 28 February 2001.

1.
a) Driving with the prescribed concentration of alcohol in the blood is not an infringement notice offence. 1,100 people were placed before the courts for this offence.
b) 354 infringements were issued to people driving on suspended licences.
c) 1,763 infringements were issued to people driving unregistered vehicles.
d) 696 infringements were issued to people for negligent driving offences.
e) 39,444 infringements were issued for speeding offences.
f) 12,380 infringements were issued for other driving or riding offences.
g) 97,073 infringements were issued for parking offences.

2.
a) Not applicable, these are court offences only.
b) Of the 354 infringements for driving while suspended, 142 infringements were paid by 28 February 2001.
c) Of the 1763 infringements issued for driving unregistered vehicles, 857 were paid by 28 February 2001.
d) Of the 696 infringements issued for negligent driving, 587 were paid by 28 February 2001.
e) Of the 39,444 infringements issued for speeding offences, 34,376 were paid by 28 February 2001.
f) Of 12,380 infringements issued for other driving/riding offences, 9,740 were paid by 28 February 2001.
g) Of 97,073 infringements issued for parking offences, 82,235 were paid by 28 February 2001.

3.
a) These are court offences only. Revenue is not collected by Urban Services.
b) To 28 February 2001, $48,855 has been collected for Driving whilst licence suspended.
c) To 28 February 2001, $356,918 has been collected for driving an unregistered vehicle.
d) To 28 February 2001, $98,270 has been collected for negligent driving offences.
e) To 28 February 2001, $5,379,759 has been collected for speeding offences.
f) To 28 February 2001, $1,463,248 has been collected for other driving/riding offences.
g) To 28 February 2001, $6,122,759 has been collected for parking offences.

4.
a) Not applicable. Driving with the prescribed concentration of alcohol in the blood is not an infringement notice offence.
b) Of the 354 infringements issued for driving while suspended, 13 were withdrawn at 28 February 2001.
c) Of 1763 infringements issued for driving an unregistered vehicle, 83 were withdrawn at 28 February 2001.
d) Of 696 infringements issued for negligent driving, 34 were withdrawn at 28 February 2001.
e) Of 39,444 infringement issued for speeding offences, 1,975 were withdrawn at 28 February 2001.
f) Of 12,380 infringements issued for other driving/riding offences, 611 were withdrawn at 28 February 2001.
g) Of 97,073 infringements issued for parking offences, 8,103 were withdrawn at 28 February 2001.

5.
a) These offences are court offences only.
b) Of 354 infringements issued for driving whilst licence suspended, 4 were listed for court.
c) Of 1763 infringements issued for driving an unregistered vehicle, 12 offences were listed for court.
d) Of 696 infringements issued for negligent driving, 30 offences were listed for court.
e) Of 39,444 infringements issued for speeding, 292 offences were listed for court.
f) Of 12,380 infringements issued for other driving/riding offences, 44 were listed for court.
g) Of 97,073 infringements issued for parking offences, 3329 were listed for court.

6. 1,988 driver licences were suspended as a result of non-payment of infringement notices.

7. 220 motor vehicle registrations were suspended as a result of non-payment of infringement notices (cancellations are not applicable to infringement notice fine default).

8. 167 infringements were issued to people who were driving whilst suspended and the licence had been suspended due to fine default.

9 infringements were issued to people who were driving unregistered vehicles and the registration had been suspended due to fine default.

Housing properties (Question No 393)

Mr Wood asked the Minister for Health, Housing and Community Services, upon notice:

In relation to the sale of ACT Housing properties in Ainslie to (a) ACT Housing tenants and (b) non AfT Housing tenants:

(1) For the periods (a) 1 July 1999 to 31 December 1999, (b) 1 January 2000 to 30 June 2000, (c) 1 July 2000 to 31 December 2000, and (d) 1 January 2001 to 21 June 2001:

(i) How many house sales were there;
(ii) What streets were the sales in;
(iii) What was the price paid for each of these houses;
(iv) Where applicable, how many of these houses were sold through auction; and
(v) By property type, how many properties has ACT Housing (a) purchased, (b) constructed (c) spent on maintenance.

(2) As of 21 June 2001:

(a) How many ACT Housing houses and flats are (i) vacant and or (ii) on sale to the public and how many of these are to be (i) auctioned and or (ii) by direct sale; and (b) By property type what is the total number of properties owned by ACT Housing.
(b) By property type, what is the total number of properties owned by ACT Housing

Mr Moore: The answer to the member's question is:

1) (a) (a) Ainslie - House sales to ACT Housing tenants 1 July 1999 to 31 December 1999.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Nil			

1) (a) (b) Ainslie - House sales to ACT Housing tenants I January 2000 to 30 June 2000.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Nil			

1) (a) (c) Ainslie - House sales to ACT Housing tenants 1 July 2000 to 31 December 2000.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Officer Crescent	$189,000.00	15 September 2000	Sale to Tenant
Angas Street	$243,000.00	14 December 2000	Sale to Tenant
	$432,000.00		

1) (a) (d) Ainslie - House sales to ACT Housing tenants 1 January 2001 to 21 June 2001.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Duffy Street	$230,000.00	28 February 2001	Sale to Tenant
	$230,000.00		

1) (b) (a) Ainslie - House sales to non ACT Housing tenants 1 July 1999 to 31 December 1999.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Officer Crescent	$251,000.00	7 July 1999	Sale by Auction
Higgins Crescent	$236,000.00	23 July 1999	Sale by Auction
Ebden Street	$306,500.00	6 August 1999	Sale by Auction
Cobb Crescent	$273,000.00	6 August 1999	Sale by Auction
Hawdon Street	$248,000.00	19 August 1999	Sale by Auction
Raymond Street	$237,000.00	20 August 1999	Sale by Auction
Hannan Crescent	$157,000.00	14 October 1999	Sale by Auction
McColl Crescent	$205,000.00	28 October 1999	Sale by Auction
Cox Street	$220,000.00	29 October 1999	Sale by Auction
Paterson Street	$347,333.00	2 November 1999	Sale by Auction
Limestone Avenue	$230,000.00	18 November 1999	Sale by Auction
Rutherford Crescent	$264,500.00	17 December 1999	Sale by Auction
Sherbrooke Street	$169,950.00	23 December 1999	Sale by Auction
	$3,145,283.00		

1) (b) (b) Ainslie - House sales to non ACT Housing tenants 1 January 2000 to 30 June 2000.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Rutherford Crescent	$218,000.00	7 January 2000	Sale by Auction
Hoddle Gardens	$230,000.00	10 January 2000	Sale by Auction
Wakefield Gardens	$207,000.00	18 January 2000	Sale by Auction
Ebden Street	$182,000.00	17 March 2000	Sale by Auction
Hoddle Gardens	$230,000.00	24 March 2000	Sale by Auction
Tyson Street	$230,000.00	24 March 2000	Sale by Auction
Leslie Street	$278,000.00	1 April 2000	Sale by Auction
Herbert Crescent	$227,000.00	14 April 2000	Sale by Auction
Tyson Street	$248,000.00	21 June 2000	Sale by Auction
	$2,050,000.00		

1) (b) (c) Ainslie - House sales to non ACT Housing tenants 1 July 2000 to 31 December 2000.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Hoddle Gardens	$228,000.00	4 August 2000	Sale by Auction
Rutherford Crescent	$223,000.00	10 August 2000	Sale by Auction
Angas Street	$270,000.00	29 September 2000	Sale by Auction
Cobb Crescent	$245,000.00	20 December 2000	Sale by Auction
	$966,000.00		

1) (b) (d) Ainslie - House sales to non ACT Housing tenants 1 January 2001 to 21 June 2001.

Street	**Sale Price**	**Date of Settlement**	**Method of Sale**
Ebden Street	$245,000.00	15 January 2001	Sale by Auction
Tyson Street	$245,000.00	16 February 2001	Sale by Auction
Hannan Crescent	$219,500.00	16 February 2001	Sale by Auction
Hawdon Street	$229,000.00	23 February 2001	Sale by Auction
Ebden Street	$167,500.00	23 April 2001	Sale by Auction
Ebden Street	$167,500.00	23 April 2001	Sale by Auction
Davenport Street	$274,000.00	18 June 2001	Sale by Auction
	$1,547,500.00		

NOTE: In some cases properties sold under the sale by auction method are passed in at auction and subsequently sold by private treaty.

1) (a) (v) (a) Ainslie - Houses Purchased 1 July 1999 to 31 December 1999.
Nil

1) (b) (v) (a) Ainslie - Houses Purchased 1 January 2000 to 30 June 2000.
Nil

1) (c) (v) (a) Ainslie - Houses Purchased 1 July 2000 to 31 December 2000.
Nil

1) (d) (v) (a)1AiAslie - Houses Purchased 1 January 2001 to 21 June 2001.
Nil

1) (a) (v) (b) Ainslie - Houses Constructed 1 July 1999 to 31 December 1999.
Nil

1) (b) (v) (b) Ainslie - Houses Constructed 1 January 2000 to 30 June 2000.
Nil

1) (c) (v) (b) Ainslie - Houses Constructed 1 July 2000 to 31 December 2000.
Nil

1) (d) (v) (b) Ainslie - Houses Constructed 1 January 2001 to 21 June 2001.

Under Construction - 4 x 1 Bed OPA's and 6 x 2 Bed OPA's

1 (a), (b), (c) (d) (v) (c)

Repairs, Maintenance and Capital Improvements - Properties and Complexes in Ainslie

Property	1-Jul- to 31-Dec-99		1-Jan-00 to 30-Jun-00		1-Jul- to 31-Dec-00		1-Jan- to 21-Jun	
Types	Number	Dollars	Number	Dollars	Number	Dollars	Number	Dollars
Houses	270	216,352	303	379,850	282	487,332	317	826,780
OPA's	97	55,361	108	174,046	124	204,432	84	52,515
Complexes	4	104,552	7	88,013	4	12,519	10	10,784
Flats-	-	-	-	-	-	-		
Total		376,265		641,909		704,283		890,079

2) (a) Ainslie - vacant houses.
All vacant homes approved for sale are offered at auction.

Property Address	Reason	Type
2,12,Chisholm Street,Ainslie,2612	To be retenanted	OPA
2,10,Hayley Street,Ainslie,2612	To be retenanted	OPA
2,16,Hayley Street,Ainslie,2612	To be retenanted	OPA
16,57-61,Wakefield Avenue,Ainslie,2602	To be retenanted	OPA
20,Raymond Street,Ainslie,2612	Under review.	House
34,Cowper Street,Ainslie,2612	Approved for sale - not yet marketing	House
21,Hawdon Street,Ainslie,2612	Approved for sale - not yet marketing	House
3,Lang Street,Ainslie,2612	Approved for sale - not yet marketing	House
l,Lang Street,Ainslie,2612	Approved for sale - not yet marketing	House
39,Davenport Street,Ainslie,2612	Currently marketing	House
18,Hoddle Gardens,Ainslie,2612	Currently marketing	House
125,Hannan Crescent,Ainslie,2612	Currently marketing	House
90a,Ebden Street,Ainslie,2612	Awaiting outcome of legal action	House
35,Campbell Street,Ainslie,2612	Sold awaiting settlement	House
39,Campbell Street,Ainslie,2612	Sold awaiting settlement	House
6,Lalor Street,Ainslie,2612	Sold awaiting settlement	House
13,Baker Street,Ainslie,2612	Undergoing assessment for future use	House
5,Piper Street,Ainslie,2612	Transferred to CHC (26/6)	House
85,Wakefield Gardens,Ainslie,2602	Upgrading - Boarding House	House

Two tenants have applied to purchase
8, Hargraves Crescent Ainslie, 2612
19, Raymond Street Ainslie, 2612

2) (b) Ainslie - Houses Owned by ACT Housing as at 21 June 2001.

Houses:

1 Bed = 14
2 Bed = 101
3 Bed = 240
4 Bed = 13
5 Bed = 5

OPA's:

1 Bed = 47
1.5 Bed = 27
2 Bed = 70

In addition 29 Ainslie properties had been transferred to CHC as at 21 June 2001 and thus remained part of the social housing pool.

Business name—registration (Question No 394)

Mr Berry asked the Attorney-General, upon notice:

in relation to the registration of the business name "Aveeda" by the Registrar-General -

(1) Why did the search not reveal that there was another business with a similar name?

(2) Why did staff not warn the proprietor that the search might leave the business vulnerable?

(3) What recourse does the proprietor have to recover the costs incurred in the flawed registration?

Mr Smyth: The answer to the member's question is as follows:

(1) The search undertaken by the Registrar-General's Office in relation to a prospective business name is not undertaken at an extra fee. The fee paid is an "Application for Registration of a Business Name" fee. The business name registered in this case is "Aveeda Hair and Beauty Salon". I understand that the Estee Lauder product line is called "Aveda".

The Business Names Act 1963 requires the Registrar-General to refrain from registering a business name that, in the opinion of the Registrar-General is undesirable, or is a name of a kind that the Australian Securities and Investments Commission (ASIC) has been directed under the Corporations Law not to register in a company name.

A search was undertaken for the proprietor, Ms Rebecca Driver. The search involved a check of the: ACT Business Names Register for similar or identical names; the Registrar-General's Office prohibited words list; and the ASIC's National Names Index (NNI). These searches are identical name searches and are not phonetic in nature. The search did not reveal ant,identical or similar name. A subsequent check indicates that there is no similar or identical business name registered in the ACT. The search of the NNI reveals a variety of business names registered in other Australian States including the word "Aveda", some of which include beauty salons. The NNI search also indicates that "A.V.E.D.A. Pty Ltd" and "Aveda Australia Pty Ltd" are either registered or reserved as company names.

The product line "Aveda" is apparently registered as a trade mark with IP Australia. The Registrar-General's Office, in line with all Australian Business Names Registrars, does not undertake a comprehensive check of registered trade marks prior to registration of a business name.

Registration of a business name does not accrue for the proprietor, any proprietary rights in words or phrases used.

The owner of a trade mark has a right to take action against a person who emulates that mark.

(2) An applicant seeking to register a business name is required to do so in a form approved by the Registrar-General. The approved form for this purpose is a "Particulars of Business Name" form. The heading on that form includes a bold statement "**see instructions overleaf**". The reverse side of the form contains a Warning in bold font as follows -

"In determining whether a name is available for registration, a search is not made of trade marks registered under the Trade marks Act 1995 (C'wlth). No responsibility is accepted for registration of a name, which might infringe proprietary rights acquired by registration of a trade mark. Inquiries should be directed to IP Australia."

The Registrar-General's Office has also published the "Particulars of Business Name" form on its website together with a Business Names Manual which clearly sets out requirements in relation to registration of a business name.

(3) The Registrar-General does not believe that registration of the subject name constitutes a flawed registration. Registered business names may be cancelled where the registration was made through inadvertence or otherwise. In this case the Registrar-General is not of the view that the registration was made through inadvertence or otherwise. Using the NNI's search engine, the exact word check did not reveal an already registered similar or identical name. A subsequent check reveals that a number of other Australian businesses have been registered including the word "Aveda". In this case, the name was not identical as the spelling is "Aveeda".

The Registrar-General's Office does not have access to details of incorporated companies or business names registered in other jurisdictions other than what is on the NNI.

Advice previously provided by the ACT Government Solicitor suggests that, in broad terms, the registered proprietor of a name has no recourse to recover costs against the Registrar-General in such circumstances.