DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

23 August 2001

Thursday, 23 August 2001

Thursday, 23 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.

Petition
Sale of fireworks

The following petition was lodged for presentation, by **Ms Tucker**, *from 6,291 residents*:

> PETITION—stop the suffering, ban fireworks now!
> To the speaker and members of the legislative assembly for the Australian Capital Territory.
> The petition of certain residents of the Australian Capital Territory draws on the attention of the Assembly: that Fireworks in N.S.W, S.A, VIC, W.A, & QLD are banned because they are a danger to the community and its animals.
> Your petitioners therefore request the Assembly to: Immediately ban the sale of over the counter fireworks in the ACT.

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

Education, Community Services and Recreation—Standing Committee
Report No 10 of 2001

MS TUCKER (10.32): I present the following report:

Education, Community Services and Recreation—Standing Committee—Report No 10—The Government's response to recommendations 1 and 3 of Coroner Somes' inquest into a death at Quamby, dated 16 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

This inquiry has looked at the implementation of two recommendations in the coroner's report, following a death at Quamby in 1997. The recommendations of this report deal with the administrative structure of Youth Justice Services, the mix of young people at Quamby, the support available to them, preventative measures and the availability of post release programs. The committee also recommended that a task force be set up to examine issues related to substance abuse. As many as 75 per cent of Quamby residents have substance abuse issues.

The stories of the young people in detention in Quamby are overall a reflection of serious social failure. It has been clearly established that supportive intervention and prevention strategies need to be given a high priority to address these failures. These young people

who come into contact with Youth Justice Services are at high risk of being continually socially isolated unless such strategies are carefully implemented. It is particularly important to recognise the need to address the causes of offending behaviours, which are often complex and call for intense and sensitive support of the offenders.

Also important is the need to ensure as much as possible that young people are empowered to participate in the community through education and employment training. If this occurs, in combination with supported post-release programs, most of these young people could look forward to fulfilling lives as positive and contributing members of our community. Any costs incurred in providing this support would be repaid many times over in the lives of individuals and their families, as well as in the broader community.

Quamby has, in recent years, made significant advances. However, there is no room for complacency. There are several areas where resourcing and support need to be reviewed or improved. There needs to be continual evaluation of programs as well as practices in the centre. It is challenging work, and staff need to be well supported and provided with regular and ongoing professional development and training opportunities. The lives of the young people in their care hang in the balance; we will all benefit if the balance is tipped the right way.

MR BERRY (10.35): Mr Speaker, this has been an extremely interesting, though reasonably short, inquiry into a matter of serious import to the territory. It is a matter that most people in the community would not be closely aware of because their families may not have been affected by the incarceration of a family member in circumstances nobody would wish on a neighbour, but it is a social responsibility that we have to provide facilities to deal with young people in difficulty with the law. These facilities are not particularly pleasant places, but we are dealing with a special group of young people who desperately need help. We are obliged to ensure that these young people end up with better outcomes as a result of their contact with these facilities.

Of considerable concern early on in the piece was whether the transfer of Youth Justice Services into Corrections was a good idea. We have examined this matter fairly closely. There were some changes of opinion in the course of writing the report but, in the end, the committee recommended, at recommendation 13:

> … that the Government ensure that:
>
> - the administration and operation of Youth Justice Services remains separate from the administration of adult corrections;—

we think that is an important recommendation that the government should stay finely focused on—

> and—
> - there is no diminution in real terms of resourcing to Youth Justice Services.

It is always most striking to me to visit a corrections centre. It has a particular impact on me, whether it is adult corrections or any other sorts of corrections. Taking away someone's liberty is an extremely serious matter. In the case of young people, as with other people in a corrections centre, we have a responsibility for their rehabilitation and

for the public safety. But it seems to me that there are more chances of gaining a better outcome for these young people if we target our services correctly in the first place, in the community generally.

I would have liked to have had time to visit other centres throughout the country to see what other people are doing, but my visit to Quamby told me that the people there working with these young people are totally committed to their job and fully understand their obligations to the community and to these young people in the course of performing their duties. Our obligation is to make sure that they have all of the tools.

Quamby was, I suspect, state of the art at the time of its construction, which was eight or 10 years ago. If we were building a facility today, we would not build it to look like Quamby and it would not have the same sorts of furniture and fittings that Quamby has. We would do it differently. Again, that is without having had the opportunity to go and look at more up-to-date facilities in other places.

There are always stories about Dickensian facilities in other places. This is not one of those, but it is certainly not up to date. What tends to happen with these facilities is that, if a new need arises after one is built, there will be an addition to the facility. So it goes on until we get a mixture within the facility such that, if we were building a new one today, we would come up with something entirely different. That is the case with Quamby, and I think it has got to be looked at more closely to see whether we ought to consider something different in the very near future. That is an extremely important issue for us to consider.

Some of the facilities out there are not of a standard that I think is good enough. They are the product of the development of Youth Justice Services over the last few years, and I think we need to revisit the provision of those facilities. If you had your druthers you would probably build a new one. The recommendations of this report, if taken into account by the government, will give a better result to young people at our youth justice facilities.

Throughout this inquiry and the inquiry prior to this, the message that came through to me is that early intervention is the key to all of this—early intervention from the first time young people come into contact with government services, whether that is before preschool, at preschool, in kindergarten or in the early years of school. That is when the intervention has to occur if we are ever going to make an impact on these issues, if we are ever going to be successful. That is not to say we should ignore our obligations to the people who did not have the intervention we would have wished to give them—people who have, to use the adage, “fallen through the cracks”.

That is why, as each day passes, I am more committed to our plan to switch the money from the ridiculous free school bus plan back into schools, where it will have an effect and where we can provide services to young people on a needs basis, reduce class sizes and do the sorts of things that in the past we might only have dreamt about. Early intervention is the key. We all know that, but we have to practise what we preach.

It might have been politically attractive for the government in the lead-up to an election to try to hand out a lolly to a small section of the community in the form of free school buses, but they have abandoned their duty to young people in their schools by this

misdirection of funds. We will redirect them because we are serious about doing something in schools which will affect outcomes for young people, not only in education but in youth justice as well. Each time I come into contact with young people in corrections emphasises to me the need to do more earlier.

I commend this report to the Assembly and urge the government to pay due regard to the recommendations in it in the hope that we get better outcomes for young people in our corrections facilities.

MRS BURKE (10.43): It has been a privilege and an honour to be on this committee with my colleagues, under the excellent chairship of Ms Tucker and the expert guidance of Mr Berry.

My first visit to Quamby was a somewhat eye-opening experience, and I believe that this committee presents some recommendations to government that will improve the excellent measures now in train at Quamby. I must congratulate the dedicated and committed staff at Quamby, currently working under the expert eye of Frank Duggan. The recommendations in the report will be further strengthened by the commitment of these staff, some 25 of whom have now gone on to diploma level. They are to be commended. This sets a tremendous mentoring culture, not only for corrections in the ACT as a whole but for all young people seeking to be rehabilitated back into our community.

I commend the report to this Assembly, and I urge the government to look carefully at all the recommendations laid out. I would also like to add my thanks for the exemplary work undertaken by the secretariat, in particular Judith Henderson and Judy Moutia. I think that Quamby is on the right track now, and I am heartened and encouraged. We still have a way to go, but I believe that the measures set out in this report will assist any government wishing to move in a positive direction and all involved at Quamby.

MR MOORE (Minister for Health, Housing and Community Services) (10.45): I am taking the unusual step of responding now because I will have no opportunity to do so after the Assembly rises. I have only had the opportunity to scan through this report to look at the recommendations and at parts of the report, and it strikes me that the situation was at a very low point when the death occurred at Quamby. It is the last thing anybody would want to see, and we understand that.

We then had the opportunity of looking at the coroner's report and of responding to the recommendations of the coroner in order to improve our service in Quamby. Congratulations are due to the people who have been leaders at Quamby and who have worked towards improvement since this terrible occurrence.

Even through there have been a huge number of improvements at Quamby that we recognise and admire, there is always room for more, particularly in a very difficult area like this. Those of us who have dealt with young people—even in our own homes or, like Mr Wood and I, as teachers—know that they can be very difficult to deal with from the ages of 12 or 13 through to 18. And the ones who are the most difficult are the ones for whom we have tried everything and it is still not working—where the courts determine that somebody must be incarcerated. So we are talking about the most difficult people of

all to handle. There will always be appropriate suggestions for how we can improve that and what we should be doing.

It was interesting to read through the recommendations that attempt to identify what the next challenges are for us, and I thank members of the committee for focusing on those challenges. We were aware of most of them, but this puts them succinctly and clearly, which helps us to prioritise. It also means that, leading up to a new government, there will be an opportunity for people to get a sense of a collaborative approach within the Assembly for a better outcome for young people in Quamby. That is clearly what the direction is.

When Mr Hargreaves launched Labor's policy, a driving force behind that seemed to be the headline "Quamby should be removed from Corrective Services". It is interesting, therefore, that he did not make sure that Mr Berry also understood that that would be Labor Party policy. But Mr Berry stood back, looked at it, along with the rest of the committee, and, interestingly, did not recommend that at all. On the contrary, consistent with the coroner, paragraph 3.11 on page 31 reads:

The evidence received during this inquiry does not support a change in the administrative arrangements for Youth Justice Services so long as there is a clear separation of youth justice from adult corrections and resource levels are maintained in real terms.

They are indeed important challenges. The recommendations are a little more open than that but, when you look at the thinking that comes through here, it seems to be the same thinking as what the coroner brought down originally, which was the motivation for the arrangement as it currently is.

Now is a good opportunity for Labor to look at this report very carefully and see if they are prepared to modify their stance and the policy they have put forward. I can see that the recommendation is open, but the thinking in this particular section warrants reconsideration. It was the one that happened to get the attention, but it is probably only a small part of the policy that Mr Hargreaves released with regard to young people in the corrections system.

I thank the members for being thoughtful and putting in the effort. I know that the report will be taken seriously by the people in Youth Justice Services and that they will continue to work as hard as they can to improve the way they do things. There are some recommendations about facilities as well. Those will come into the new capital works arrangements as well as the ones that are already under way. Those recommendations will be very helpful.

MR HARGREAVES (10.51): I, too, welcome this report. I think it is an excellent report and that it states the way Quamby is at the moment. The tragic events of 1996 gave us all a wake-up call. It was tragic that that needed to be the case.

Of course, over the last five years the mindset has changed. The people responsible for the management of it, indeed, all the people involved in it, have had a mindset change and are now talking about preventive and educational programs and approaching the

problem of kids with difficulties from a compassionate point of view: trying to give them a different direction rather than exacting some sort of vengeance for the crimes.

What also comes out of the report for me is a recognition that even kids at the point of going to Quamby are not hardened criminals. We still have the opportunity with the most difficult ones, by the time they go to Quamby, of giving them an alternative and redressing some of the difficulties that created the environment in which they went off the rails and ended up in Quamby—poverty born of lack of skills, opportunity and education, and drug abuse. Quamby is able to address the reasons why these kids have turned to drugs and turned to crime.

They are not going to get it right in every single case. We know that some of the people will graduate from Quamby to the criminal system. But a measure of the success of Quamby—one of our committees was told—is that in 1996 or thereabouts the recidivism rate was around 30 per cent and, I recall, three years ago it was down to five per cent. Something is happening in Quamby that is working, and I think that needs to be recorded and congratulations need to be given.

Where Labor is coming from is that the difference between a prison and a youth detention centre hinges on the nature of the resocialisation that has to occur. If an adult goes to a prison and we are to be compassionate, restoring them to the community and restoring the community after damage, we have to destroy the norms and the paradigms which led these people into a criminal way of life. Then we have to reshape and resocialise them and then restore them to the community.

The difference with young people is that those norms and paradigms are not yet fully formed. In some cases they are, and there is not a lot we can do about that within the juvenile justice system. But for most of these kids, as proven by the successful attack on the recidivism rate, norms and paradigms have not fully formed. So we have an opportunity to intervene and help shape the kids and, as Mr Berry pointed out, the time to do that is when they are at school and are at risk of leaving school. And in regard to why they would be—the social issues surrounding the young person's friends outside school, the whole family environment—there is a whole suite of things we can do to try to prevent kids turning that way.

An example of another good interventionist program is the police scouts program—great program, terrific idea. It takes away the "them and us" syndrome between the police and young people. The idea is that organisations like police scouts will do the guys at Quamby out of a job. I say all power to their arm.

But make no mistake, the difference for Labor between the proposed prison and Quamby is that we have an opportunity in Quamby, if we concentrate on the educational and interventionist aspects and on the reshaping and redirection of these young people, to stop them going to the prison, where there is a completely different mindset. What we believe—and it comes through in this report as well—is that two different mindsets need to be applied to the problem of justice for young people and the problem of justice for adults. It comes through in recommendation 13, in the paragraph following the one that Mr Moore quoted, which recommends:

> the administration and operation for Youth Justice Services remains separate from the administration of adult corrections.

That tells me that they need to be separate. The report also says, at 3.10:

> no cross utilisation of staff between Quamby and Adult Corrections as staff in the two sectors require fundamentally different skills;

I was thrilled to pieces to see that in there because they do require fundamentally different skills. The base skills would be the same, but the target for the application of those skills is completely different and the outcomes are completely different.

I congratulate the committee on what I think is an excellent report; I congratulate the secretariat because I know it is very difficult for a secretary to try to stitch together all the views of a committee. I congratulate the staff of Quamby, of the Department of Justice and Community Safety and of the Department of Education and Community Services, who have between them turned this place around 180 degrees in the five years. I would like the record to show that, if the government and the opposition differ on anything, it is in a race to make sure that these people get the best opportunity and the best resources to do an even better job.

MR STEFANIAK (Minister for Education and Attorney-General) (10.57): I thank Mr Hargreaves for his gracious comments. In fact, I thank him for the gracious comments he made on Quamby in about August 1999, when Mr Rugendyke and I were at a parliamentary conference. It is appropriate that the staff in Education and the staff in Justice are complimented for turning around the situation in Quamby. Having had something to do with Quamby up to August or September 1999, I noticed some considerable changes there and, hopefully, had a hand in driving some of them.

There were some real problems there in the mid-90s. The institution was not being run as well as it could have been. Some of the personnel were, to put it kindly, not really suited to that type of work, and a lot of things needed to be done. It is a shame that a young person died, probably needlessly, because of the ineptitude of certain people there. This, whilst tragic, acted as a catalyst for further and dramatic improvements. And they were dramatic—the entire culture was changed. A lot of excellent hard work was put in by Michael White, who has now moved on to bigger and better things in Victoria, and I compliment him on the effort he put in.

In March 1999, I think it was, an excellent general manager or boss—I do not know what you call it these days—was appointed to Quamby, and I pay tribute to Frank Duggan and the drive he has shown in that institution. New staff have been recruited—well-trained staff. Sadly, I was unable to attend the certificate 3 or certificate 4 graduation of Quamby staff. I think everyone now has some qualification for working with youth and troubled youth, through the CIT. Those are some of the significant improvements that have been made.

A lot of the staff are new. I was just talking to Frank and to Charlie Shore, who is the deputy manager there. I congratulate Charlie on his recent promotion. Damn fine rugby forward, too. John, you would like him; he is with Tuggeranong. There are still about five of the original old staff there, but there are a lot of really keen new staff. The place is going very well.

There are always going to be problems with institutions for juveniles; some of the most difficult and troubled youth imaginable are in them. But a lot of work can be done to ensure that they come out a lot better than when they went in. Some of the programs that are available now, with their concentration on education and vocational education—like the 1,000 hours of CIT vocational training per year—help immensely in assisting the rehabilitation of these very difficult young people.

There was a bit of controversy over where Quamby should sit. Until August 1999, it sat in the Children's, Youth and Family Services Bureau; it now sits with Justice and Community Services. The coroner has expressed quite a clear view, a view that would probably be accepted by most people I talk to in the legal fraternity and verified by the committee too. It is a view that was around the courts. The main thing, regardless of where it sits, is that the programs are effective, the staff are well trained, the leadership is effective—which it is—and the place is moving forward. That is certainly the case.

I have not looked at the committee's report in any great detail, but I think we can all be very happy with the giant advances made in Quamby. We still hear of occasional trouble there; one has to expect that in an institution like that. But the institution is much more physically secure than it was when it was first built and, in its operations, is a far better place than it was six or seven years ago.

I conclude by thanking everyone who has played a role in this. I thank John Hargreaves for his comments and, again, offer my congratulations to Frank, Charlie and everyone out there on a good job.

MS TUCKER (11.02), in reply: Mr Speaker, I just want to thank Judith Henderson; I omitted to do that. This is the last inquiry and report that we will produce as a committee, and I want to put it on the record that Judith Henderson has been a fantastic secretariat support for this committee consistently throughout this Assembly, as she was in the last Assembly.

Question resolved in the affirmative.

Planning and Urban Services—Standing Committee
Report No 75

MR HIRD (11.03): I present the following report:

> Planning and Urban Services—Standing Committee—Report No 75—Section Master Planning for Turner, Sections 46, 47, 48 and 62, dated 20 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

This report by my committee is important for two reasons. The first is that it deals with a serious concern of local residents about what is happening within their suburb. In this sense, the report is another demonstration of the local government type of role of my

committee and this place. It also indicates to the larger community that we have a role to play in local government. The uniqueness of this chamber is that we play that role as representatives for local matters as well as state matters.

I cannot emphasise enough how important it is for the committees of this parliament to pick up on local concerns and provide a forum for them to be addressed to, and by, local members. Indeed, Mr Speaker, you and other members will recall that my committee encourages local members to participate in the inquiries that are before the committees.

The second reason why this report is important is that it deals with an ongoing problem of section master plans: how to prepare them, how to adjust them and how to make them do what the members of this place want them to do, which is to foster change in our inner suburbs while protecting the interests and amenity of the residents who want to remain in their homes.

Our report has 11 recommendations. The first recommendation deals with the way in which questionnaires distributed to local residents by PALM are formulated as well as the assumptions that seem to lie behind some of the questions. We suggest some improvements to these questionnaires.

Recommendations 2 and 3 pick up on what local residents want for their particular sections. Recommendations 4, 5 and 6 suggest some modification to existing design and siting controls in these sections. Recommendation 7 reflects the concern of residents about the second development outcome drawing prepared by PALM for these sections and circulated to residents.

While PALM's first development outcome drawing reflects actual information obtained, its second drawing is based on assumptions about the final shape of the development in the sections once each and every block is developed in accordance with the existing land use control. Many of the residents in these sections are in their twilight years, and they do not need to be told that PALM is looking forward to a full-scale redevelopment of each and every block.

Also, development outcome drawing 2 itself may well be irrelevant, as PALM has certainly been known to change its attitude in the past. I cannot say that this proposal by PALM will mean that they will not do it in the future. This may well occur in relation to this area in the future, as I indicated. So we have recommended that PALM discontinue the preparation of development outcome drawing 2, known as "drawing 2".

Recommendation 8 deals with the review of all section master plans at seven to 10-year intervals. Recommendation 9 relates to the practices of developers and real estate agents in areas earmarked for possible redevelopment. My committee was most concerned at stories of unwelcome, unsavoury and even cruel pressure being applied to residents to sell their homes. Fear is used as the basis of these pressures and it seems to be aimed particularly at elderly residents.

The committee recommends that the government, through the appropriate regulatory bodies, monitor the practice of agents and developers. If necessary, this place may be called upon to take future action on these unsavoury practices.

Our recommendation 10 calls for an amendment of the information package for local residents on section master plans to delete the current reference to the process being similar to what is being used for variations to the Territory Plan. The committee believes that the statement is misleading, particularly in relation to appeal mechanisms.

Finally, we recommend that PALM advise all Assembly members, as well as the relevant Assembly committee, of any intention to amend a section or master plan. All members should also be provided with copies of a final section master plan.

This report was unanimous. I would like to thank my colleagues, Mr Rugendyke and Mr Corbell, and our committee secretary, Mr Rod Power. I would also like to thank officers from PALM. I appreciate Minister Smyth's assistance in helping us in our deliberations by making staff available to the committee, and I thank all those who gave evidence to the committee for assisting us in our deliberations on the subject matter and the outcomes.

I commend the report to the house.

MR CORBELL (11.11): This report represents a significant step forward for residents facing redevelopment of the inner suburbs of Canberra, notably the suburb of Turner. I was pleased to bring this matter to the attention of my colleagues on the standing committee some time ago, and I was very pleased that they agreed that it should be undertaken as an inquiry. The recommendations, as outlined by Mr Hird, represent a significant step forward for residents in the matter of certainty about their suburbs.

Residents are concerned about the impact redevelopment in their suburb will have. Most residents do not, in my experience, have any objection to redevelopment and change in their suburbs, particularly in the suburb of Turner. Residents recognise that Turner is close to the city, and its proximity to Civic will inevitably lead to change and redevelopment. The matter is really about how that redevelopment occurs, the pace and extent of that change and, most importantly, if they want to continue to remain in their own homes, what certainty they have.

As Mr Hird pointed out, it is a matter of serious concern for older long-term residents in particular. I should stress, though, that it is a matter of equal concern for newer families moving into these suburbs who see these suburbs as attractive places to live, who have chosen to buy into the suburb and who want to live in a single dwelling in that suburb and take advantage of the amenity and the neighbourhood that that suburb offers them.

I was prompted initially to raise this matter in the inquiry by representations from residents in Turner. That led me to have a walk around some of the sections that would be affected by the proposed redevelopment. Those sections are now the subject of this report. I was particularly struck by section 47 in Turner. Section 47 is not a big section—it only has 24 dwellings or so—but it is in a very generously sized and pleasant location, close to Haig Park. The section has a very strong sense of community, which comes both from residents who have been there for many years and from new families who have moved in and who are adding to the character of that area.

The sense of community struck me very strongly and made me realise how important it is to ensure that the planning exercises we undertake in these suburbs, particularly in suburbs like Turner, reflect what people want for their neighbourhoods. We should be ensuring that what they value in a neighbourhood is protected and enhanced as well as allowing for change to occur at a moderate pace. These recommendations seek to address that—particularly recommendation No 2, in relation to section 47, which recommends to the government that the master plan for that section reflect the fact that there is no redevelopment intention.

It is quite clear in a number of sections, and most clear in section 47, that the overwhelming majority of lessees do not have any redevelopment intention in the immediate future, whatever that may mean in terms of PALM's questionnaire. If they do not have a redevelopment intention, the Assembly has already set out a process for protecting that and for ensuring that it is reflected in the planning controls for their suburb.

The difficulty for residents, which really led to this inquiry, was that they felt that PALM were not implementing the clear wish of the Assembly—and the whole basis for the section master plan process coming into effect—that, if there was no redevelopment intention, that should be reflected in the immediate planning controls for the area. That recommendation is very important for the residents of section 47, and I hope the government responds positively to it.

The other recommendation I want to refer to concerns the application of the section master plan and the period in which the section master plan should have effect. At the moment it is open ended as to how long section master plans are in effect for or, indeed, when they are up for review. That does not add any certainty for local residents. If residents who have participated in a planning process have been asked in what period of time they believe they will or will not be redeveloping an area, that period of time should, equally, be reflected in the duration of the section master plan. Unfortunately, that does not occur at the moment, even though, at the moment, PALM do ask residents if they intend to redevelop in the immediate future. But if most residents say no, PALM can come back in six or 12 months and say, "Things have changed. We are going to review your plan, and there is now going to be redevelopment in your area."

That is not an acceptable approach. If residents are asked to state the time frame for which their intentions are clear, PALM should be asked to do the same thing—the government should be doing the same thing. That is the rationale behind recommendation 8. It requires that there should be a formal review, established for the re-examination of all section master plans, at seven to 10-year intervals, so that residents have certainty, people wishing to redevelop have certainty and the government has certainty. Once a master plan is established, it should stay in effect for a period of seven to 10 years and then be reviewed, re-examined and possibly revised after that seven to 10-year period.

Recommendation 8 provides a level of certainty about redevelopment in the inner north that has not existed to date. It will allow for a more moderate pace of change that still accommodates the pressures and the demands for different types of housing to be built in established suburbs like Turner whilst at the same time protecting, in a more significant

way, the interests of long-term residents in those suburbs. I commend the report to the Assembly.

Question resolved in the affirmative.

Report No 76

MR HIRD (11.18): I present the following report:

> Planning and Urban Services—Standing Committee—Report No 76—Draft Variation To Territory Plan No 155: Territory Plan Review Part A (General Principles and Policies), dated 20 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

I am pleased to present the 76th report of the Standing Committee on Planning and Urban Services. The four recommendations of the committee are set out on the front page. The first, and most significant, recommendation is that draft variation No 155 be deferred and resubmitted to the next planning committee of this house. This will enable the draft variation to be considered concurrently with the amended version of draft variation 125, which deals with the proposed new ACT code for residential development.

As members are aware, this parliament has directed that a further period of consultation take place on the proposed new code. The committee think it likely that the new residential code will have important implications for the wording and content of part A of the Territory Plan, so it seems sensible to consider both draft variations together, which is what we have recommended. Mr Speaker, you will recall that this is not the first time my committee has chosen to do that; we did so to bring members' attention to draft variations 158 and 163.

Our second recommendation is that PALM prepare a formal written response to the comment it receives on any master plans. Also, we recommend that members be informed whenever PALM prepares a master plan. It is particularly important that this information be provided to the relevant planning committee of the Assembly and also to local members, who should be involved. I am sure members appreciate why we have made these recommendations: in essence it is inappropriate that members are not told about important planning matters, such as the preparation of a master plan, and find out about them through the media.

Our third recommendation is that part A of the Territory Plan tell readers that the preamble which appears in part A does not form part of the legal policy content of the plan but is put there to provide useful background information.

Our final recommendation might be seen as a little trivial, but the members of my committee do not see it that way. We recommend that the Territory Plan map be integrated with the "live" codastral maps, which show lease boundaries, in order to provide up-to-date information about land uses and land holdings in the ACT.

This is an important issue, one that is closely linked to a separate inquiry currently being undertaken by my committee into an improvement to the central land administration information system for the territory. The committee will bring down a report on this matter in the not-too-distant future—hopefully, next week—and I hope it will set the scene for significant improvements to what we are currently doing in this area. Speaking professionally, I can see huge benefits to the various professions involved—which I have witnessed in Hobart, Queensland and the Northern Territory—in speeding up and reducing costs to the consumer.

In the context of draft variation 155, our fourth recommendation simply draws attention to the need to move with the times in terms of providing electronic and comprehensive access to information about land uses and lease boundaries.

This report is a unanimous report. I would like to thank all those who have assisted us, in particular the officers of PALM—and Dr Cooper and Minister Smyth for making the officers available. I thank our secretary, Rod Power, and also my colleagues Mr Rugendyke and Mr Corbell. I commend the report to the Assembly.

MR CORBELL (11.24): Mr Speaker, the most important recommendation in this report is the one that recommends to the government that draft variation No 155 be resubmitted to the successor of the Standing Committee on Planning and Urban Services in the next Assembly. It is important because draft variation No 155 and the proposed draft variation 125 of the new ACTCode 2 variations are clearly linked. Indeed, the provisions in draft variation 155 in relation to master planning are closely linked with the provisions for master planning which we have already seen in the publicly released draft variation 125, now being further worked on.

The committee felt it was important that these two draft variations were dealt with together, in the same way that the committee has considered two other draft variations concurrently. Because of their clear relationship to each other, we felt it was important not to assess draft variation 155 in isolation from the proposal contained in draft variation 125 for how it would be implemented in practice.

The importance of this issue is added to by the fact that draft variation 125, the new ACT code for residential development, is a very controversial document. It has attracted a lot of public debate, indeed, concern, over the past few months. To give approval, in effect, to the operational aspects of that through approving draft variation 155 was, the committee felt, inappropriate. It is now incumbent on the government to recognise the importance of this recommendation and acknowledge that these two documents, 155 and 125, should be dealt with concurrently, so that the full range of issues can be dealt with as a whole rather than in isolation from each other, and then be decided upon ultimately by this place.

The other recommendations that Mr Hird addressed in his speech are on more minor issues that the committee felt should be accommodated in draft variation 155—in the document that will be referred back to the successor of the Planning and Urban Services Committee in the next Assembly.

Question resolved in the affirmative.

Protection Orders Bill 2001

Debate resumed from 21 August 2001, on motion by **Mr Stefaniak**:

That this bill be agreed to in principle.

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

Protection Orders (Consequential Amendments) Bill 2001

Debate resumed from 21 August 2001, on motion by **Mr Stefaniak**:

That this bill be agreed to in principle.

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

Defamation Bill 1999

Debate resumed from 21 August 2001, on motion by **Mr Stefaniak**:

That this bill be agreed to in principle.

MS TUCKER (11.29): The Greens are somewhat disappointed in where we have arrived at with this bill. It appears that the debate will be adjourned, which is a mixed blessing, I believe. There are a number of amendments that the government plans to make to the bill in response to concerns raised by the committee inquiry released earlier this year. If passed, I think we would probably end up with a defamation regime marginally better than the existing legislation. It would probably cost the ACT community considerably less, with the shift to fairly prompt reparation by media leading to a significant reduction in general damages. This might speed up the process and so lessen the damage to individuals of unfounded or unfair publishing.

This bill initially had greater ambitions. The shift from truth and public benefit to truth alone as defence is perhaps the clearest example. In its report the committee raised concerns about the privacy implications of this shift and recommended that the bill not proceed until the privacy concerns were addressed. Sadly, the government has chosen instead to back away from the issue and revert to public benefit.

The Greens would rather have seen the government take some time to consider the issues of privacy more carefully, but to maintain its commitment to the truth alone defence, on the basis that public benefit can be a difficult argument to make, whereas truth alone can often be ascertained fairly promptly. Truth alone defence encourages the general commitment to transparency and accountability; and the sky has yet to fall in on those jurisdictions where such a defence applies.

Similarly, we are disappointed to see the government has largely agreed with the committee's recommendation that plaintiffs can sue for general damages.

The government amendment to this bill limits the application of general damages to imputations of criminal behaviour, but the issue surely is that such imputations can be withdrawn, the public record can be set right, and that the Supreme Court can make an order to vindicate the plaintiff's reputation if necessary. Would that not resolve any problems of imputations to someone's reputation? How, for example, do confidential settlements achieve such a vindication of reputation? Clearly they do not. The point at issue in defamation law ought to be to ensure integrity and make amends, rather than simply reward a plaintiff. It ought not to be to give the plaintiff the opportunity to threaten action for substantial damages, vindication of reputations notwithstanding.

The problem with general damages is that they can be used, and are used, pre-emptively. Community-level activists and organisations can be too easily bullied by corporations, by business leaders, by individuals and organisations of wealth and status. The threat of defamation action can be used, and is used, to conceal a multitude of sins and a multitude of self-interested acts.

We are all well aware of what are now called SLAPS, or strategic litigation against protestors, and it is a well used strategy by corporations in particular to try to silence people in the community who are, with the community interests in mind, trying to see particular issues made public and debated. This is not a good thing for a society. We have real problems with the use of strategic litigation and it needs to be taken very seriously by parliaments. There has been no compelling case made for general damages, and it is disappointing to see that here in the ACT we are moving forward so slowly towards a more rational regime.

The bill has had an interesting path. Following the tabling of the committee report, it appeared that it may have gone off the boil. My office contacted officers in the department and some kind of round-table discussion was mooted. We heard nothing more about this bill. Then, about a week before the last sitting week, the Defamation Bill appeared again on the government program. My office was involved in some prompt round table discussions regarding possible amendments to the bill, but, and I think we are all aware that our time has been rather pressured, that process was not fully resolved. On 7 August the government tabled its response to the committee inquiry.

This is not a particularly thorough process. The Greens had in mind a number of further amendments, shifting the balance away from the affluent and powerful, but they would have required considerable work and negotiation. We simply have not had the time to progress that far.

I will take the opportunity of this debate to put on the record changes to defamation law that the Greens are interested in pursuing, and if this bill is adjourned now we are prepared to take up the running in the next Assembly. The Greens hold the view that members of the community ought to be free to speak about the performance of public officers and not be vulnerable to defamation actions in regard to statements reflecting on their performance; that we ought to enjoy the freedom to speak on matters of public interest; and that only natural persons ought to be able to sue for defamation, and we would be free to speak about corporations.

The Greens have a real commitment to free speech and public information, and remain committed to reforming the defamation law in the ACT in order to limit the capacity of powerful institutions and individuals in our society to manipulate the law in their own defence.

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

Guardianship and Management of Property Amendment Bill 2001
Detail Stage

Clause 1.

Debate resumed from 21 August 2001.

Clause 1 agreed to.

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

MS TUCKER (11.35): I seek leave to move the amendments circulated in my name together.

Leave granted.

MS TUCKER: I move the amendments circulated in my name *[see schedule 1 at page 3305]*.

This bill, as we have said already, is mostly about weighing up the dignity of risk against the duty of care towards people whose capacity to make judgments is impaired in some way. I did not receive negative feedback on this bill's intent. ACTCOSS, ADICAS and the Carers Association have looked at the bill for me. I understand that the government made the changes through a process of circulating a discussion paper and then the bill, and I am very pleased that the people involved have followed this process.

There have been some concerns expressed that in making this change the bill might move the legal situation back towards older paradigms of protection and away from the rights of people with a disability. The bill seems to have achieved this balance, but future legislators should continue to be vigilant as to the effect.

The Carers Association was keen to see some recognition of the role of carers in the decision-making process in cases in which carers were not the appointed guardian or manager. According to the carers, in current practice, for various reasons, the person appointed to be guardian or manager is not always the carer—that is, the family member or friend who cares for the person. Other people involved in the process agree that although there are so-called carers who abuse their position, there are also many carers who simply cannot take on the extra responsibility of financial decision-making or other life decisions. Others see the public officers as the decision-makers of last resort—that is, that there must be a good reason if the carer is not appointed to this role.

The Carers Association's perspective is that, leaving abusive carers aside, it is not that those carers are incapable of looking after their own affairs, although the Carers Association says that this is how it feels to some people who are in the situation of being the carer but not the decision-maker. It may be just one role too many. It may be that they are overwhelmed or confused by the tribunal. The tribunal aims to be open to everyone, but it unavoidably is a legal place. The point is that there are some carers who feel disempowered by the process and feel that the decision-making role, however necessary, makes their family relationship or friendship and support role more difficult.

The purpose of my amendment is, firstly, to make it clear in the legislation that carers are recognised and have an important role. The Office of the Community Advocate and the Public Trustee have told my office that this is their practice in any case. What having it in the law will do is make it absolutely clear to carers that they are valued. I believe the legislation is the proper place to spell out the principles that guide any procedure.

In preparing these amendments my officers worked with the Carers Association, people in the disability sector, and particularly ADICAS and the disability legal service, and have consulted with ACROD and DPI. We have also benefited from close consultation with the Office of the Community Advocate and with the Public Trustee, and with help from the departmental officer in the public law group. I am very pleased that we have been able to work in this way and I believe that these amendments are better for it. This is a complex area and it is of great importance to vulnerable people in the community. Thanks also to the parliamentary drafter who has put in a lot of time on this.

In making it clear to carers that they are valued, it is also essential not to divert from the main point of the bill, which is ultimately the wellbeing of people with a disability or incapacitating illness. To make it absolutely clear that the process of consultation with carers is not intended to detract in any way from the decision-making principles at subsection (5) (2), my amendment includes the qualifier that the decision-maker does not have to consult if this consultation would, in their opinion, adversely affect the interests of the protected person. It is also spelled out that this consultation is not the only consultation involved in making the decision.

The decision-making principles, which discuss the protected person's wishes, indicate very strongly that the protected person themselves will be the main source of information to the decision-maker. The qualifying clause in my amendment specifically addresses the situations in which the carer does not have the protected person's interests or wishes foremost in their dealings with the decision-maker, be that the Public Trustee or the Community Advocate.

The Community Advocate advises that their office deals with around one case of abuse a month. The amendment therefore reiterates the aim of the guiding principles here to make it absolutely clear that if consulting with the carer on a particular decision would adversely affect the person's interests, then the decision-maker is not required to consult. Consultation is a fundamentally important process in many decisions. Consulting does not, however, imply that the views expressed must become the final decision. Consultation is the respectful seeking of views and a responsibility to respond, to give an answer and weigh up the views expressed.

The Carers Association also, of course, acknowledges that not all carers are acting in the best interests. However, they also point out that the great stresses on carers lead to burn-out and feeling overwhelmed, and that for some carers increased support, or perhaps training, would enable them to fulfil the role of decision-maker. Not all carers want to take on that additional formal responsibility. However, as all involved know and acknowledge, the decision-maker's decision-making will benefit by the information that carers often have about the current situation and needs of the person with the disability.

The Public Trustee and the advocate also routinely consult with all key parties, including relatives, friends or a member of the person's cultural group where this is not seen as compromising the person's wellbeing. The amendment tries to find a balance between underlying concerns that some carers will seek to exploit the protected person and the need to recognise in law the useful knowledge that carers will have about the protected person's situations and interests.

The operative part of the amendment inserts into the decision-making principles these words:

Before making a decision, the decision-maker must consult with the primary carer of the protected person, unless doing so would, in the decision-maker's opinion, adversely affect the protected person's interests.

This principle is intended to be non-binding on the final decision. It is there to ensure that carers are part of the decision-making process without compromising the guardian manager's role to protect the protected person.

Secondly, the amendment inserts into the dictionary a new definition of primary carer which reads:

primary carer includes a family member or friend who is primarily responsible for providing support or care to a person other than completely or substantially on a commercial basis.

This definition is adapted from the Victorian Mental Health Act 1986, subsection 3 (1), "Definition of primary carer". The change we have made is to remove "any person" and insert "family member or friend", following terminology preferred by the ACT Carers Association. The drafters have also made what I understand is a technical change, replacing "primary carer means" with "primary carer includes".

I hope that members will support this amendment. As always, if despite our best efforts this results in unexpected difficulties for people with a disability, the Assembly can and should adjust it. I understand that we have a bit of a delay with the amendments. I wonder whether someone else can adjourn this debate.

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

Fair Trading Legislation 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) (11.45): Mr Speaker, we are happy not to adjourn this bill.

Mr Stefaniak: Thank Christ for that.

MR SPEAKER: I was thinking that myself.

Mr Stefaniak: And we are happy to accept your amendments, so there you go.

MR SPEAKER: Order, please! We might get something through.

MR STANHOPE: Righto. Done. Mr Speaker, the Attorney-General introduced this bill on 21 June 2001. The bill amends the Fair Trading Act 1992 by removing the finance industry from local regulation and instituting a system of enforceable undertakings, the Fair Trading and Consumer Affairs Act 1973 by giving inspectors new powers of entry, search and seizure, the Magistrates Court Act 1930 by establishing a generic infringement notice scheme, the Sale of Goods Act 1954, and the Law Reform (Manufacturers Warranties) Act 1977 by removing consumers power in relation to quality of goods and warranties.

The scrutiny of bills committee offered some comments on the bill, but it was not critical of the provisions. The committee did suggest that the Attorney should explain how the new provisions about the new powers of entry, search and seizure in the consumer affairs act would work in practice. I think that is an eminently suggestible suggestion of the committee. I would be interested in the explanation that the Attorney might give in addressing this bill, particularly about the provision that allows the inspectors to complete their own copy of the search warrant which is included in proposed new subsection 12C (5).

I think this is an interesting development in the law, Mr Speaker; that inspectors, in relation to various acts now, following I think even a telephone conversation or perhaps a faxed direction, write out their own search warrants. I think that is a suggestion or a provision that we need to monitor very closely. The Attorney's officers have advised my staff that similar provisions to this were used in the Gas Safety Act and the Electricity (Amendment) Act which this Assembly passed last year, and the government is relying on provisions in each of those acts as a precedent for the provision that is included in this bill.

Perhaps I need to confess that the inclusion of this particular provision in those acts whizzed through without me paying particular attention to it. In future I will look a little more closely at some of these search warrant provisions. Perhaps I was not expecting them to appear in the Gas Safety Act or the Electricity (Amendment) Act, but on reflection perhaps one can understand the use of such provisions in those acts where public safety may be an issue and an inspector may have to act quickly. I guess there is

an argument that can be made there. I am not as sure, though, that similar considerations apply in the fair trading area. As I said, I would be interested if the Attorney would take up the scrutiny of bills committee's invitation to explain why an inspector, under this piece of legislation, should be able to write out his own search warrant.

There are some things in this bill that the Labor Party is happy to support. For example, the Magistrates Court Act is amended to include a generic infringement notice scheme for offences declared by regulation to be infringement notice offences. This is, indeed, a sensible provision, and it should save resources in the parliamentary drafting office resources.

However, there are other provisions which are less clear cut and cannot be supported. The need for the amendments is not clear, despite a briefing from the department. For instance, clause 5 of the bill removes the finance industry from the scope of the Fair Trading Act. The departmental briefing pointed out that there is considerable doubt that the ACT had the power to pass the original provision in 1992 because of subsection 23 (1) (h) of the self-government act. That subsection prevents the ACT government from passing legislation relating to companies. However, I understand that the Attorney and his department are still negotiating with the Commonwealth in relation to regulations to be made under the self-government act to ameliorate the operation of that section.

In those circumstances it may be premature for this Assembly to pass the government's amendments. Perhaps the Attorney may even wish to withdraw that amendment until his negotiations with the Commonwealth have been completed. If he does not withdraw that provision, and I am not aware that he intends to, the Labor Party will oppose it on the basis that it seems to hand back to the Commonwealth powers needed by the ACT's Fair Trading Office to deal with complaints against banks and other credit providers.

The Attorney may say that these powers are vested in the ACCC and ASIC under Commonwealth legislation. They may very well be, but an ACT consumer going to those offices to complain about mistreatment will not get the same degree of attention and service from those Commonwealth offices that they would and should from our own Fair Trading Office.

The Australian Consumers Association and the CARE Credit and Debt Counselling Service object strongly to this amendment. The ACA sees the amendment as a significant watering down of ACT powers and an unwarranted limitation on the ACT's powers to act on behalf of consumers. They point out that ASIC and the ACCC are concerned only with big picture, systemic misconduct, and will not act on behalf of individual consumers in local disputes. In addition, the ACT retains responsibility for credit under the uniform consumer credit code, and adopting these amendments would virtually mean opting out of that national scheme.

I think that is perhaps the most serious aspect of the proposals that the government has introduced today—the extent to which individual consumer's rights and powers and influence in the ACT will be negatively impacted by the move to the Commonwealth of powers better placed within the ACT Fair Trading Office. It seems to us to be a serious divesting of responsibility from the ACT to the Commonwealth which must and can only

impact negatively on ACT consumers. This is not a good idea, Attorney. I honestly do not understand why you picked it.

There are other provisions of this bill said by the Attorney to be necessary to remove inconsistencies with the Trade Practices Act, or to be necessary housekeeping amendments to tidy up our statute book, but which seem to remove some consumer rights. I would be more prepared to accept the Attorney's explanation of these changes if there had been some public consultation and discussion of the amendments. You are racking up a very bad record on consultation, Attorney. Once again, there was no public consultation by the Attorney on a bill he has presented.

There is provision for a Fair Trading Advisory Committee to advise the Attorney on these matters. I understand that all appointments to this committee expired in April and no new appointments have been made. The Assembly is being asked to take the government's word that these amendments are, in fact, inconsistencies and housekeeping.

The provisions which are said to be inconsistent with Commonwealth law have been coexisting with the Commonwealth law for many years, and both the Australian Constitution and the self-government act provide a mechanism for determining which of Commonwealth or state and territory law is to prevail if they are inconsistent. An advisory committee would have been able to give the Assembly greater assurances that ACT consumers' rights are not being lessened by these amendments. As it is, I had to seek advice and assurances from other sources.

In summary, Mr Speaker, the Labor Party is happy to support what are obviously beneficial provisions of this bill, but will be opposing those provisions where the explanation or justification is seriously dubious. I foreshadow as well, Mr Speaker, that I have a number of amendments which I will propose but which I understand the government is pleased to accept.

MS TUCKER (11.53): The Greens are generally supportive of this piece of legislation, although we do have some concerns similar to those outlined by Mr Stanhope. In particular, I am concerned about the question of local financial services. I believe that the ACT Fair Trading Office should still have power over local financial services. I understand the argument that the Commonwealth body has jurisdiction and that it is contradictory for us to have that same power. However, in our consultation, particularly from the Australian Consumers Association, we have come to the position that it can be seen to be complementary, not contradictory. Therefore we will be supporting, I think, Mr Stanhope's amendments on this. It is also important—I have to say this for the record—that the Office of Fair Trading has the resources to properly do this work.

MR STEFANIAK (Minister for Education and Attorney-General) (11.54), in reply: I am a bit amazed at some of Mr Stanhope's comments. He talks about the Fair Trading Advisory Committee. I seem to recall appointments. I think some reappointments recently went through cabinet.

Mr Speaker, I thank members for their comments generally. The proposed amendments in the Fair Trading Legislation Amendment Bill significantly enhance the consumer protection powers in the ACT. In particular, they permit the Commissioner for Fair

Trading to accept and enforce undertakings from traders, and they permit the Commissioner for Fair Trading to require a trader to substantiate a claim made in the course of trading.

A number of issues have been raised in relation to the bill. Firstly, I refer to issues of financial services and practices. Concerns have been raised about an amendment to the ACT Fair Trading Act to remove the application of part 2 of the act dealing with unfair practices, financial services and products. Let me state at the outset that it is not the government's intention to reduce in any way the ambit of consumer protection law in the ACT. The proposed amendment is an attempt to reconcile Commonwealth law and the ACT legislation for the benefit of consumers by avoiding consumer confusion. It arises because the territory's law-making power is circumscribed by the provisions of the Australian Capital Territory (Self-Government) Act of 1988.

As the Commonwealth increases the scope of corporations law, any certainty about the capacity of the ACT to legislate about matters dealt with in the Commonwealth legislation begins to diminish. The ACT government continues to negotiate with the Commonwealth for the making of a Commonwealth regulation under subsection 23 (2) of the self-government act 1988 to permit the continued operation of ACT laws that would otherwise be able to operate pursuant to section 12AE of the ASIC Act. If the Commonwealth gives an indication that such regulations will be made it will be possible to remove the technical amendment dealing with financial services and products in the bill, as the ACT and the Commonwealth legislation would then be capable of operating concurrently.

I come now to comments made by the scrutiny of bills committee. The committee raised two issues in relation to the operation of proposed new sections 12I and 12J. The first issue raised relates to the operation of proposed new paragraph 12 (1) (b) where an investigator may enter premises in specified circumstances. In response to any concerns that the committee may have in relation to these two provisions, new paragraphs 12 (1) (b) and 12 (1) (c), it is noted that new 12 (1) (b) presupposes implied consent, given that any person can enter the premises for whatever reason when they are open to the public. There is no logical reason why an inspector, or any other member of the public, could not enter the premises when they are open to the public. Similar reasoning applies to the operation of new paragraph 12 (1) (c) where an investigator, or any other member of the public, has the right to enter business premises during business hours at the premises.

The second issue raised goes to the operation of new sections 12I and 12J where an investigator makes a copy of any document under paragraph 12 (1) (b). The committee further notes that new sections 12I and 12J will apply only where the person is required to produce a document, noting that there appears to be no power to make such a requirement. In this regard the committee seems to have overlooked proposed new section 12D, "General powers on entry to premises". That section provides the following:

(1) An investigator who enters premises under this division may, for the fair trading legislation, do any of the following in relation to the premises or anything on the premises.
… … ….

(h) require the occupier, or a person on the premises, to give the investigator reasonable help to exercise a power under this division.

Accordingly, an investigator acting under paragraph 12 (1) (b) or (c) would be required to respect legal professional privilege, if claimed, and any claim of self-incrimination, which would not apply unless the information or the production of the document, or any other information or document or thing obtained as a direct or indirect consequence of providing the information or production of the document, were to be used against a person in a criminal proceeding.

I commend the bill to the Assembly. Mr Stanhope, hopefully, would have seen my response to the scrutiny of bills committee, which was dated 21 August.

Mr Stanhope: I don't think I have, Bill.

MR STEFANIAK: I think I have basically just stated it anyway, Jon, but I am happy to show you if you do not have it.

Mr Stanhope: I might have it.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

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

Clauses 4 and 5, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (11.59): Mr Speaker, the Labor Party will oppose clauses 4 and 5. Clause 4 is consequent to our support for the removal of clause 5. Clause 5 is the clause in the bill which effectively hands back power over the finance industry to the Commonwealth.

I dealt with this issue in the speech I made at the in-principle stage, Mr Speaker. I do not think there is any justification. The Attorney, it seems to me, has not justified at all why the ACT should hand back to the Commonwealth powers in relation to complaints in respect of the finance industry. The case simply has not been made.

I think this is a bad idea. I think it disempowers ACT residents quite seriously, potentially. The government is proposing that ACT residents who wish to complain about consumer matters relating to this particular very important industry no longer have access to the Fair Trading Office, but have instead access to the ACCC or the ASIC. We all know that those national organs, those national bodies, will not respond to an individual complaint in the way that the ACT Fair Trading Office will respond to that complaint. We all know in our hearts that it is simply not going to happen.

Not only has there been no real justification made for why we should hand back this particular responsibility to the Commonwealth, there has been no attempt at justifying it seriously. It is a really bad idea. I just cannot imagine any argument that could be put to justify this change in approach. The Labor Party will oppose clause 4 and clause 5. We will oppose the removal of this responsibility from the ACT Fair Trading Office to the Commonwealth.

MR RUGENDYKE (12.02): I, too, have strong concerns about the government's desire to pass control for investigating unfair financial services practices to the Australian Securities and Investments Commission. This will result in the supply, or possible supply, of financial services being exempt from the charter of the Office of Fair Trading.

It is outrageous that the government is prepared to abrogate responsibility for representing consumer complaints against unfair practices related to financial services products and services. These include debit and credit cards, loans, insurance, retirement savings accounts and superannuation.

I cannot understand why the government wants to flick pass this responsibility back to the Commonwealth. ACT residents are represented by self-government, and the community expects the government and the Assembly to look out for and protect its interests. But here we have legislation put up by the government to remove this role from the ACT statutes and dump local consumer protection issues on ASIC.

I am certainly not convinced that ASIC will be interested in nor have the resources to adequately serve the ACT public on top of its national regulatory obligations.

Mr Speaker, I wrote to ASIC on 26 July seeking answers to these questions and I am yet to receive a reply. So, clearly, the issue is unsettled and up in the air. The ACT government has indicated that it prepared the bill on this matter anticipating changes at a Commonwealth level. It could conflict with our laws.

I contend that we should do everything possible to preserve our interest and role in representing our community. How long will it take the Commonwealth to sort out what it is going to do with this issue? If this particular proposal is passed today the ACT will be left in limbo. I am not prepared to risk leaving the ACT unprotected or in limbo for any period of time. I do not have the confidence in financial institutions and insurance companies to water down the laws designed to protect consumers from unfair or unscrupulous conduct.

Mr Speaker, I have a proposal before the Assembly regarding credit card providers. If this was adopted the ACT would not be responsible for policing it in practice under the legislation proposed by government. The ACT could not enforce its own law. The government wants to wash its hands of the responsibility and leave it up to the Commonwealth. This is a nonsense.

Consumer advocacy has taken a battering with the removal of funding from CARE Credit and Debt Counselling Service, and now the government wants to take away further safeguards by downgrading the powers of the Office of Fair Trading. I will be opposing clauses 4 and 5.

MR STEFANIAK (Minister for Education and Attorney-General) (12.05): I thank the two gentlemen who spoke. I do not think you need to be too concerned because the government does not oppose the deletion of these clauses.

Let me state at the outset that by including clauses 4 and 5 in the bill it was not the government's intention to reduce in any way the ambit of consumer protection in the ACT. The proposed amendment was an attempt to reconcile Commonwealth and ACT law to avoid consumer confusion.

The government originally supported the inclusion of these clauses as a result of concerns about the constitutional reach of the territory's powers to make laws. Unlike the states, the territory's law-making power is circumscribed by the provisions of the Australian Capital Territory (Self-Government) Act of 1988, a creation of the Hawke Labor government. Subsection 23 (1) (h) of that act specifically prohibits this Assembly from making laws with respect to: "the matters that are the subject of the laws enforced in the territory relating to (i) companies". Section 28 of the act provides that a law in the territory will have no effect to the extent that it is inconsistent with the law defined under subsection 28 (2).

The Commonwealth Australian Securities and Investments Corporation Act of 2001, the ASIC Act, forms an integral part of the Commonwealth's corporation law. Division 2 of the ASIC Act replicates most of the consumer protection provisions in part 5 of the Trade Practices Act, which also exist in fair trading laws in the territories and states. Section 12AE of the ASIC Act recognises this overlap between jurisdictions, and provides that the consumer protection provisions in division 2 of the ASIC Act operate concurrently with other similar state an territory law.

This probably has the effect of displacing section 28 of the self-government act, otherwise dealing with inconsistency. However, section 12AE does not save the operation of the ACT laws because the Commonwealth has relied on the corporation's power to enact the ASIC Act. In doing so, the Commonwealth has triggered the operation of a self-government prohibition on ACT law-making power with respect to Commonwealth laws enforced in the territory concerning companies, section 23 (1) (h).

The Commonwealth is making further amendments to the ASIC Act through the Financial Sector Reform Bill which will come into operation soon. This will significantly change the definitions of financial services and products. In particular, the Commonwealth proposes to include in the definition of financial product "credit facilities within the meaning of proposed ASIC regulations".

The Commonwealth has confirmed that the proposed regulations will adopt a broad definition of credit facility. As the Commonwealth increases the scope of corporations law, any certainty about the capacity of the ACT to legislate about these matters, particularly consumer credit matters, begins to diminish. If the Commonwealth proceeds as planned the ACT may lose its power to legislate with respect to consumer credit, and on one view existing ACT legislation dealing with credit may fail.

The ACT government continues to negotiate with the Commonwealth for the making of a Commonwealth regulation under subsection 23 (2) of the self-government act to permit the continued operation of ACT laws that would otherwise be able to operate pursuant to

section 12AE of the ASIC Act. Although the Commonwealth has yet to formally indicate its position on this issue, the government is increasingly confident the Commonwealth will make the required regulations. Accordingly, the government now supports the deletion of clauses 4 and 5.

Clauses 4 and 5 negatived.

Clauses 6 to 18, by leave, taken together and agreed to.

Clause 19.

MR STANHOPE (Leader of the Opposition) (12.10): I move amendment No 3 circulated in my name *[see schedule 3 at page 3307]*.

Mr Speaker, this amendment alters the ground on which a warrant may be issued. The government's proposal makes no reference or connection with an offence in relation to the issuing of a warrant. It refers only to an investigation, raising the question: investigating what?

The Labor Party position is that there must at least be some suspicion that an offence has been committed or is being committed to justify the search. My proposed amendment is to omit a subsection and substitute a following section which says that there has to be at least some suspicion that an offence has been committed or is being committed to justify the issuing of the search warrant, rather than as concurrently entertained in the act, which just refers to an offence and not to the suspicion that an offence has been committed.

MR STEFANIAK (Minister for Education and Attorney-General) (12.11): As I indicated, Mr Speaker, the government does not object to amendment No 3. The phrase "reasonable grounds for suspecting" is in fact the phrase adopted by common law and statutes.

Amendment agreed to.

MR STANHOPE (Leader of the Opposition) (12.12): I move amendment No 4 circulated in my name *[see schedule 3 at page 3307]*.

This is a further amendment to clause 19 which simply removes the words "if any" from the clause. This goes again to the issuing of search warrants. The Labor Party amendment has the effect of providing that the warrant should be certain in its terms and refer to the offence that the person is suspected of committing and the evidence that is expected to be found. It is just to provide some certainty in relation to the reasons for the issuing of the search warrant.

MR STEFANIAK (Minister for Education and Attorney-General) (12.12): Mr Speaker, the government does not object to amendment No 4 and the related amendments Nos 5 through to 7.

Although the government concedes this amendment, I wish to inform the Assembly why the provision was proposed in the first place. The existing bill permits an inspector to apply for a warrant by telephone or other electronic means. The opposition, I understand,

does not oppose the application for warrant in this way, but opposes provisions in the bill where, if it is impractical to send the warrant by fax, the investigator can write down the details of the warrant as dictated to the inspector by the person issuing the warrant, obviously by phone.

Since as early as 1990, when the Commonwealth made a review of the Commonwealth criminal law, the introduction of telephone warrants has been justified. The report of the Australian Law Reform Commission on criminal investigation recommended statutory provision for grant by telephone of search warrants, pointing out the difficulties that may be experienced by law enforcement officers in remote areas in gaining access to magistrates.

Two grounds were thought to justify the introduction of telephone warrants. Firstly, it is said that law enforcement officers may urgently require a search warrant in a remote area distant from a magistrate. Secondly, a law enforcement officer may, while engaged in a law enforcement operation, not necessarily in a remote area, urgently require a warrant, and the success of the operation might be prejudiced if he or she had to leave the scene of the operation to obtain a warrant by the normal procedure.

Several laws both at federal and territory levels have adopted a provision similar to new subsection 12C (5) in the Fair Trading Legislation Amendment Bill. Several laws have been passed and are currently in operation. These include the Commonwealth Customs Act of 1901, section 203M, which deals with warrants by telephone or other electronic means; the ACT Utilities Act of 2000, section 158 (5), warrants—application made other than in person; the ACT Gas Safety Act of 2000, section 46 (5), warrants—application made other than in person; and the ACT Electricity (Amendment) Act of 2000, section 89K, dealing with warrants—application made other than in person.

Notwithstanding this, the government notes the objections to this provision and it concedes that in the ACT the extraordinary provision for an investigator to jot down the details of a warrant would be seldom used. Accordingly, the government will be accepting Mr Stanhope's amendments.

Amendment agreed to.

MR STANHOPE (Leader of the Opposition) (12.15): I move amendment No 5 circulated in my name *[see schedule 3 at page 3307]*.

Mr Speaker, the Attorney has just given a very good explanation of the government's position and what it was that it sought to achieve. I am pleased that the government has taken the initiative it has. I do not think I need to say any more.

MR SPEAKER: Mr Stanhope, the Attorney has indicated agreement. With the agreement of the Assembly, might I suggest that we deal with amendments Nos 5, 6, 7 and 8 together? Would you like to do so?

MR STANHOPE: I am happy to move them all, but I think Nos 6 and 7 are consequential. I would not be moving Nos 6 and 7 if No 5 passes. I seek leave to move them together.

Leave granted.

MR STANHOPE: I move amendments Nos 5, 6, 7 and 8 together, but I think Nos 6 and 7 are consequential *[see schedule 3 at page 3307]*.

Amendments agreed to.

Clause 19, as amended, agreed to.

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

MR RUGENDYKE (12.16): I stood up before to alert you to the fact that I will be opposing clause 30. This amendment is based on similar arguments I raised earlier in relation to the changes to the financial services complaints. Again, this is taking away a longstanding protection that should remain in our control. Regardless of how often this safeguard has been utilised in the past 24 years, no-one can confidently predict how often it may be required in the future. I contend that it should stay. No-one has been able to convince me so far that it should be taken out.

Remainder of bill agreed to.

Bill, as amended, agreed to.

Guardianship and Management of Property Amendment Bill 2001

Detail stage

Remainder of bill as a whole.

Debate resumed.

MS TUCKER (12.18): I am sorry, members, for the confusion before. I seek leave to withdraw the amendments that I moved and to move the amendments which are now circulated in my name.

Leave granted.

MS TUCKER: I move the two revised amendments circulated in my name *[see schedule 2 at page 3306]*.

I have already spoken to the amendments. What I said before was correct. I now have the correct amendments before you.

MR STEFANIAK (Minister for Education and Attorney-General) (12.19): Mr Speaker, I am happy to support Ms Tucker's proposed amendments to the bill to enable the primary carer of a protected person to provide input into the decisions made by a guardian or manager. This recognises that primary carers do have intimate knowledge of the needs of the protected person, given their day to day contact with them, and, as such, they are in a position to provide helpful information that might assist a guardian or manager in making decisions affecting the protected person.

These amendments provide that, before making a decision, the decision-maker must consult with the primary carer of the protected person, unless such consultation would adversely affect the protected person's interest. A primary carer includes a family member or friend who is primarily responsible for providing support or care to a person.

I have consulted with the Community Advocate and Public Trustee, who also support the amendments. The provision is couched in terms so that the protected person's interest remains paramount. If there are any concerns by a decision-maker that consultation would not be in the interests of the protected person, then it is not mandatory. For example, there are cases where a carer may be violent and threaten the safety of the protected person and/or their guardian or manager as a result of decisions being made. Clearly, in such circumstances consulting the carer may put the protected person at greater risk, and the decision-maker is not compelled to do so.

The definition of primary carer would, in the majority of cases, be the main care giver, but it is also broad enough to include a person who provides support. This may be a relative, neighbour or a close friend who knows the protected person well. In cases where the primary care may be being provided on a commercial basis, for example, by a paid nurse or in a nursing home, it would be of assistance for the decision-maker to consult with the support provider instead. Persons with tenuous connections to the protected person could not claim to be a primary carer within the meaning of the provisions. In my view the amendments are consistent with the concepts and principles in the bill.

I will conclude by saying I thank the staff of the Justice and Community Safety Branch who today, with this bill and a few others, have been making some very quick amendments so that we can get through the program. I was particularly impressed yesterday by Mr Quinton and his staff in relation to the Crimes Amendment Bill for Mr Osborne. That was a particularly efficient operation. I commend the officers of the department who have dealt very expeditiously with a number of amendments to this bill and those previous bills.

MR RUGENDYKE (12.21): Having great regard for carers myself, I too will be supporting the amendments of Ms Tucker.

Amendments agreed to.

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

Bill, as amended, agreed to.

Sitting suspended from 12.22 to 2.30 pm

Visitors

MR SPEAKER: Before I call for questions without notice, I would like to recognise the presence in the gallery of year 6 students from the Trinity Christian School. Welcome to your Assembly.

Questions without notice

TransACT

MR STANHOPE: My question is to the Chief Minister. Over the past two days the Chief Minister has been questioned about the decision of Actew to increase its holding in TransACT by way of a further investment of, according to various reports and answers, $20 million, $29 million or $30 million. Whatever the amount, the Chief Minister told the Assembly on Tuesday that the new investment took Actew's holding in TransACT to 35.61 per cent. Whilst the exact amount of Actew's investment is somewhat confused, the Chief Minister has also been confused over the current—that is, revised—estimated cost of TransACT's rollout. On Tuesday, in answer to me, he said that he did not know, and yesterday he said that it was approximately $200 million and no more precise advice was available.

Does the Chief Minister want to correct his answer of Tuesday that he did not know? Can he say whether he has been briefed by either his department or Actew since his answer of yesterday? If he has, can he say whether any more precise advice is now available; if so, what is it?

MR HUMPHRIES: I said yesterday in answer to a question from Mr Kaine:

I have asked TransACT whether they can be more precise about the figure.—

that is, the figure for the total rollout—

If I have a more precise answer, I will give it to you … and to others who are interested. I do not believe that figure is yet available.

That remains the case. As soon as I have a figure from TransACT, it will be available to members of this place.

MR STANHOPE: I have a supplementary question. Can the Chief Minister tell the Assembly whether Actew provided either its voting shareholders—namely, the Chief Minister and the Deputy Chief Minister—or the cabinet with a revised TransACT business plan when it sought approval of its plan to increase its investment? If so, what is the difference between the amount of the estimated cost of TransACT's rollout in the original business plan and the current business plan?

MR HUMPHRIES: There is a revised business plan in the process of being developed. As last advised, that revised plan was being developed by TransACT itself and will be available to Actew and, I assume, to the government in due course. When that document is available, the questions that Mr Stanhope asks could be answered.

ActewAGL

MRS BURKE: My question is to the Treasurer, Mr Humphries. I understand today marks the first birthday of the ActewAGL joint venture, the partnership that was approved by this Assembly early in 2000. Last year there were concerns that Actew and the Canberra community would suffer from such a partnership. Minister, has ActewAGL met its performance targets.

MR HUMPHRIES: I thank Mrs Burke for that question. It is a very good question and a very timely question on the first anniversary of this partnership being consummated. It is true that at the time this partnership between Actew and AGL was negotiated and approved by the Assembly there were many who suggested that the arrangement was a bad one; that it would result in many unfortunate things happening; that the ACT would not realise its investment; that we would lose the investment; that the venture would be swallowed up by AGL; that the sign on the building across the way would change from "ActewAGL" to just "AGL"; that we would not get what we put into it.

I can advise the Assembly that in the year since that agreement was consummated we have seen ActewAGL meet or exceed its major performance targets for customer service and for profitability. I give some examples of those things. Employment under ActewAGL has grown by 60 direct jobs through the AGL call centre, and indirectly hundreds more positions have been created.

The partnership has grown the utility's customer base. It has further spread interstate. There are now some 1,000 interstate customer contracts, including contracts with three of the major banks and one of Australia's leading retail chains.

It has delivered a profit of around $50 million for the first nine months to 30 June 2001, which is some 42 per cent above the target that was set for it. I am sure Mr Quinlan would be very pleased to know that if he were here. It topped an ACT government customer service survey, an Artcraft survey, as the best government agency for delivering services to the community.

Something that Mr Berry might be interested in is that it has provided improved safety for employees. Time lost through injuries has fallen by 16 per cent. It has provided improved job opportunities for young Canberrans, with 40 apprentices and engineering cadets undergoing training during the last year.

Here is something for Ms Tucker. It has grown the GreenChoice customer base by 42 per cent to 3,700 customers. It has commissioned a $4 million recycling water program in North Canberra and spent in total more than $100 million in the local community, including about $1 million supporting local sporting teams.

Opposition members interjecting—

MR HUMPHRIES: I know it is painful when one is proven wrong in these circumstances. The fact is that the ActewAGL partnership has proven extremely beneficial to the people of the ACT. The partnership has created jobs and attracted additional investment to the ACT. I think those people who chanted the ideology "public good, private bad" should realise that what we have achieved here is a very substantial benefit for the ACT community. It is clear that the partnership has been a beneficial one, and I would challenge those politically opposed to the joint venture arrangement to concede that the Canberra community is the clear winner.

ACTTAB—payments to unsuccessful tenderers

MR CORBELL: My question is to the Chief Minister. Can you tell the Assembly if it is normal practice for ACT government agencies and departments to make payments to unsuccessful tenderers as compensation for the cost of preparing tenders?

MR HUMPHRIES: It is not normal practice, but I believe that there are circumstances in which it does occur where, because of the nature of a tendering process, additional costs are incurred by tenderers which are unusual. Although I cannot specify a particular case where it has occurred, I believe it does take place from time to time.

MR CORBELL: Can you then explain why the ACTTAB board agreed to pay $5,000 to each of the four short-listed tenderers for its headquarters redevelopment project?

MR HUMPHRIES: I cannot explain that without taking the question on notice, but I imagine it is for a reason like the one I have just suggested.

Victims services scheme

MR HIRD: It is interesting, Mr Speaker, that no-one has mentioned the $344 million this week.

My question is to the Attorney-General, Mr Stefaniak. The government changed the processes for victims of crime rehabilitation and compensation in late 1999. How has the new victims services scheme been operating since its inception? Have there been any alternatives proposed to this scheme and what will the impact be on the ACT budget if these alternatives are implemented?

MR STEFANIAK: I thank Mr Hird for the question, Mr Speaker. That $344 million was the deficit they left us, wasn't it?

Mr Hird: Yes.

MR STEFANIAK: Right. As members will be aware, the new victims services scheme was introduced by the government on Christmas Eve, 24 December 1999. That is actually when it came into effect. The Assembly was not sitting on that night.

There is a very substantial reason for this. The previous scheme was actually costing the ACT taxpayer ever-increasing amounts of money and no other assistance, other than straight cash, was being provided to victims. Very little rehabilitation was being undertaken and the cost of the scheme, which had risen to more than $6.5 million in its last full year of operation, was certainly starting to get out of hand, even though there was not a good return in terms of rehabilitation.

That was not acceptable to the government and so we set in place a new scheme whereby only the most severe cases would actually result in a straight cash compensation payout. However, this was to be a scheme that ensured that all victims would be able to access essential rehabilitation services.

The new scheme works at various levels. The regulations that establish the framework set up a victims assistance board and the victims services scheme. According to a victim's needs, which are assessed, at level one all eligible victims are entitled to two contact hours of service. At level two, in addition to what they are entitled to under level one, they get up to six contact hours. At level three, eligible victims can receive up to 12 contact hours, on top of their levels one and two entitlements.

The professional services available to victims include counselling, rehabilitation, massage therapy, or any other health-based service that will assist the victim to recover from the harm suffered as a result of a criminal act committed in the ACT.

We have had an interim scheme in place for the first 12 months. Over 110 victims used the scheme in that period. The victims services scheme started on 1 January this year and, in the six-month period to the end of June, in excess of 150 victims accessed the scheme. The range of services accessed included those provided by psychologists, counsellors, social workers, massage therapists and physiotherapists, and in total more than 1,000 hours of services were provided.

Mr Hird asks what the alternative might be. Now that the Labor Party has actually started to release some of its policies—though there is not a huge amount in them—we can see where they propose to go.

Mr Berry: There is $27 million more in ours than in yours, Bill.

MR STEFANIAK: Do your figures, Wayne: Berrynomics at its worst. The Labor Party has decided that it likes the rehabilitative aspects of our policies. That is great. There is nothing new in that. Those opposite are making a habit of saying that they will keep elements of government policy and that is great. It just means that it is good policy.

However, then they are going to get their grubby little hands into taxpayers' pockets and give out some more money. Who is going to benefit? I wonder if that is really going to benefit victims. It will certainly benefit the lawyers, but I really wonder if that is actually going to benefit victims. Labor has promised to keep our policy in government, but also to restore the old cash compensation scheme as well. Our scheme currently costs about $2.1 million annually and, of that, $870,000 is cash payouts. Mr Stanhope's scheme, the Labor Party's scheme, would probably have a price tag of around $9 million per annum.

Mr Stanhope: Oh, Bill! Read that again, mate.

MR STEFANIAK: I will read that again. That is $6.5 million plus the $2.1 million. That gives about $8.6 million. It keeps going each year and I think that figure is reasonable. Will the principal beneficiaries be victims? I do not think so. I think the lawyers will benefit, but I wonder if victims really will.

I will not even bother asking the obvious question about where the money is coming from. However, the Labor Party policies are starting to rack up a very considerable bill and there is not all that much fat in our budget or in the outyears. One really could ask where the money is coming from for this policy. Where is the money coming from for other policies?

Mr Stanhope: On a point of order, Mr Speaker: I have to say that I think the Attorney has maligned our police force and emergency services forces most grievously in his answer by suggesting that people who get a cash payment—

MR SPEAKER: There is no point of order.

Mr Stanhope: He did. He said that people who get—

MR SPEAKER: You may speak on the adjournment.

Mr Stanhope: He said that people who get a cash payment have their grubby little hands in taxpayers' money.

MR SPEAKER: I warn you, Mr Stanhope.

MR HIRD: Mr Speaker, my supplementary question is also to the Attorney. Mr Attorney, did I hear you say correctly that the Labor Party actually did not develop a new policy, but has taken our policy? Is it also the case that, by adding to that policy and giving away ACT taxpayers' money generously, it has ensured that it could, at a minimum, rack up an additional cost of $9 million?

MR SPEAKER: You are not responsible for Labor Party policy, Mr Minister.

MR STEFANIAK: No, I am not responsible for Labor Party policy, but Mr Hird—

Mr Berry: You would like to be.

MR STEFANIAK: Look, mate, I could give you some top policies. Mr Hird is quite right to be concerned about the Labor Party's ability to rack up a bill. They are very generous with taxpayers' money.

In terms of Mr Stanhope's amazing comment about grubby hands, I suggest he read the *Hansard*. I certainly wasn't referring to those he mentioned. I think I was referring to the opposition in terms of their getting their hands on money and not spending it as well as they could.

Visit to Beijing by Assembly members

MR OSBORNE: Ms Tucker and I talked about my question, Mr Speaker. We did not quite know whom to address it to but we decided that it should be directed to the Chief Minister. Chief Minister, are you able to inform the Assembly whether the trip to Beijing by Mr Smyth and Mr Quinlan is a result of our sister city relationship with Beijing? Are you able to inform us if Mr Quinlan and Mr Smyth will take part in any sister city ceremonies while they are over there?

MR HUMPHRIES: Mr Speaker, I can confirm that the trip is as a result of our sister city relationship. Mr Smyth and Mr Quinlan are involved in two activities associated with that relationship. In particular, they were involved in the opening of the University Games in Beijing this week. They will also be involved in some discussions with the Beijing government about furthering the relationship between Beijing and Canberra.

MR OSBORNE: Mr Speaker, I ask a supplementary question. Given that you have confirmed that the trip was a result of our sister city relationship, I point out that the vote that was taken during the debate that took place last year when we endorsed the sister city relationship was eight to three, and there seemed to be six votes missing. Has the Labor Party indicated to you that they now formally support the sister city relationship? One can only assume that this is the case, given Mr Quinlan's decision to take part in the trip.

MR HUMPHRIES: Mr Speaker, I think Mr Quinlan and the Labor Party can speak for themselves. But I have to say that I am very grateful to Mr Quinlan for agreeing to take part in the trip. I was asked to attend that occasion. However, I felt in was inappropriate for me to be outside Canberra during this period and I asked my deputy to represent me. I am very pleased to say that a bipartisan approach was indicated by both Mr Quinlan and Mr Smyth representing the ACT and its community, not the government, at that important occasion.

I might point out that Beijing has about 27 sister city relationships, and only six of those sister city bodies were invited to attend the games. Canberra was one of those six. I think both Mr Smyth and Mr Quinlan do the ACT credit by being there.

Ministerial travel

MR KAINE: My question is to the Chief Minister and it deals with travel, which seems to be appropriate at the moment. The question relates to the ministerial travel report for the first quarter of this year which was tabled recently. This report shows that on 3 and 4 March this year two of your ministers, Mr Smyth and Mr Moore, were absent for a day-and-a-half each and spent a total of $766 between them on travelling expenses when they decamped to Sydney, so to speak, to attend a cultural event. The event to which the ministerial travel report refers was the Gay and Lesbian Mardi Gras. Chief Minister, why was it necessary for half your cabinet, who are so obviously overworked, to take time off at public expense to attend this event, presumably as representatives of the ACT government? What lessons did they learn of value to Canberra, and would not the attendance of just one minister have been more than adequate?

MR HUMPHRIES: Mr Speaker, the ministers were invited to attend that event in Sydney.

Mr Kaine: And they accept all such invitations regardless.

MR HUMPHRIES: I understand they decided they would accept the invitation. It is not normal for more than one minister to attend any occasion or event outside the ACT, but this was not very far away and did not involve enormous expense. It was the view of those ministers that it was appropriate to attend. I support the making of that decision. I believe that they acquitted the ACT well in indicating that this territory as a community is prepared to support all areas of the Australian community.

MR KAINE: I take it from the Chief Minister's answer that they did not learn anything of value to the ACT, and I think that is probably a correct answer. My supplementary question is this: did Brendan and Michael hold hands all the time at this function?

MR HUMPHRIES: I am advised they swapped from handgrips to hugs occasionally, Mr Kaine. Mr Speaker, they may not have learnt anything necessarily, although I would be surprised if my ministers would go anywhere without learning some things of value for this territory because they are the sort of people who learn everywhere they go; but sometimes there is value in being represented at occasions and being seen on occasions, and actually sending a message about the ACT and not just taking some information back on behalf of the ACT.

I might make the observation, Mr Speaker, that this information is on the table in a form which members can see and have perused, and in a form which was not available previously under the former government. For that matter, information about what other members of this Assembly do by way of travel is still not available in that form. Believe it or not, Mr Speaker, we are not the only members of this place who travel. The travel arrangements and expenses of other members of this place are not on the public record.

Williamsdale quarry

MR BERRY: My question is to the Chief Minister and is about the Williamsdale quarry. Members may recall reports about the failure of the conveyor at Williamsdale quarry. The conveyor might not mean a lot to many people, but it is like a large bridge with a roof over it and a very wide belt which carries tonnes and tonnes of rock from the quarry face to crushers and those sorts of things. The conveyor at Williamsdale quarry ruptured, haemorrhaged or exploded in a very dangerous way, showering some shrapnel into nearby paddocks. That was a very serious incident. It was potentially life threatening if people had been around it.

Information that has come to me suggests that there has been a report prepared on the incident and that the report has been supplied to the Williamsdale quarry. Has the government seen that report? If so, will the government release the report to the Assembly? If the government has not seen the report, will the government procure it and release it for public scrutiny?

MR HUMPHRIES: There was an incident at the quarry on 30 May where the thruster brake disintegrated during commissioning of the decline conveyor. No-one was injured and the incident is being investigated by the relevant New South Wales authorities in accordance with normal practice. Of course, this incident took place in New South Wales.

The conveyor has been quarantined pending the development of a suitable recovery plan and formal investigation. The investigation will focus on identifying all the factors that contributed to this incident and the strategies needed to prevent a recurrence. In the meantime, quarrying operations are continuing and trucks are being used to move materials between the primary and secondary crushers.

If there is a report, it has not yet been supplied to the ACT government. I will make inquiries about whether the report is available and whether it is suitable for publication.

MR BERRY: I have a supplementary question. Minister, is an estimate available of the lost production which will result from the conveyor being down until 31 December? We have been told that it will not be starting again until 31 December.

MR HUMPHRIES: I do not have an estimate at the moment. If there is one, I will obtain it and provide that information to members. As I have said, the rock is still being transported, but by truck rather than by conveyor belt.

Geriatric care facilities

MR HARGREAVES: My question is to the Minister for Health, Housing and Community Services. In July the minister said he would be arguing for the establishment in the ACT of high-level psycho-geriatric care facilities if he could be convinced there was a need. He said he would approach the federal Minister for Aged Care, Mrs Bishop.

A media release from Mrs Bishop dated 12 December last year announced the provision of $2.6 million in recurrent Commonwealth funding for such facilities to all states and territories—except the ACT. Can the minister tell the Assembly why the ACT did not receive any of this funding when all other jurisdictions did? Can he say if the ACT made any application for funding under this Commonwealth program and, if not, why not?

MR MOORE: We did, indeed. In fact, Mr Humphries and I went to meet Mrs Bishop and drew her attention to the fact that we were the only jurisdiction without support for psycho-geriatric facilities. She drew our attention to the fact that this was not physical support. The funding you are talking about is for advising people about how to handle psycho-geriatric cases rather than for facilities. The Chief Minister argued strongly, as did I, that it would be appropriate for us to have a share of that money and have financial assistance in this way. Again, when I met the minister at our conference in Adelaide, I raised the same issue with her. In fact, I sat next to her at dinner and also used that opportunity to raise the matter.

However, the minister was quite firm that the ACT would not receive that style of money for psycho-geriatric facilities. What she did do was agree that we would be one of two jurisdictions to be given assistance for a more lateral solution with regard to nursing home beds. I announced those at the time we met in Adelaide. That was a direct outcome of the meeting the Chief Minister and I had with Mrs Bishop.

The only other minister who had a meeting like that was Dean Brown, the Minister for Human Services in South Australia, who came to Canberra and sought a meeting with her and, as I understand it, Dr Wooldridge. They also received some acknowledgment in a package. Mrs Bishop actually released a bigger package and said to other ministers that there was still money there for other people who are using lateral solutions for dealing with it, and they would find some money.

We have worked particularly hard, not only at a departmental level but also at a personal level, to get these outcomes. This is a good opportunity for me, on behalf of Canberrans, to thank the Chief Minister for using his good offices and his relationship with Mrs Bishop to get those outcomes.

MR HARGREAVES: Mr Speaker, I have a supplementary question. Can the minister tell us the reason why the ACT missed out on these funds in the first place? Can the minister tell the Assembly whether he has been able to establish, as he said in July that he would, the level of need in the ACT for psycho-geriatric care? How many ACT residents are currently being cared for outside the territory because there is nowhere here for them to be cared for?

MR MOORE: We have had a couple of cases. Just this morning I went through a letter I received some time ago from somebody whose husband had been moved to Goulburn. You will be aware of a significant case that was in the media. These are the two cases of this type of psycho-geriatric care being required in the ACT—people who require very specialist care. There are only a couple of them a year. They go through a stage—usually between three and six months—when they are particularly difficult to handle. It is a normal part of a specific problem, and they need to spend some time in a facility that can handle their issues. Goulburn is able to provide that facility. It does not seem appropriate to build a facility of that type at the moment for the level of access that we would need in the ACT.

However, there have been negotiations in the ACT, and we are able to provide more beds for people in this sort of circumstance—other than the specific circumstance of the six months or so when they need a very specialist style of care to deal with their particular issues. If members want to discuss those issues, I am happy to do so individually. But, because somebody was named in the media, I would prefer not to do so now.

I still believe it is not appropriate for us to put expenditure of funds into building a facility like that. If we use our money there, we will not be able to use it to meet the greater need and the growing need of people who are ageing.

As to the reason why we did not get the money in the first place, it was Mrs Bishop's view—which I disagree with—that the ACT, as part of the region within New South Wales, could get psycho-geriatric advice from New South Wales. That was the reason. I think I interpret her view fairly closely. We disagreed with that, but she was not prepared to change her mind.

Belconnen Remand Centre

MS TUCKER: My question is to the minister for corrective services. It regards conditions and practices at Belconnen Remand Centre. I remind the minister that I sent a letter some time ago about practices and their relationship with the Royal Commission into Aboriginal Deaths in Custody. I have not had an answer to that yet.

At lunchtime today I had a call regarding a very worrying situation at the Belconnen Remand Centre. The brother-in-law of a man who has been in the Remand Centre for three weeks is very concerned that the remanded man's mental health, medical needs and legal needs require urgent attention. Since the court hearing yesterday he has been trying to find out exactly what he needs to do so that he can arrange it.

On repeated attempts to phone since then, he has not been able to get through to the man. He has been told by staff, who have all been polite, that due to a lack of facilities and/or staff resources he cannot talk to the man by phone, because there has been a lockdown or

there are operational requirements and he can try again in five minutes. When he tried to visit him, he met similar difficulties, also attributed by staff to staffing shortages. There were too many people already there, then there had already been one visitor, then it was out of hours, and so on.

It has been 24 hours since this family became very seriously concerned about the state of this man's mental health. They have been unable to find out what is needed and to arrange it. Can you confirm whether or not there are staff shortages at Belconnen Remand Centre that are causing these sorts of things to happen? If there are, what are you doing to address the situation?

MR MOORE: Thank you for the question. I think the first and most important thing is that Belconnen Remand Centre is under significant stress because we have too many people in that resource. That is why it is important for us to move as quickly as we possibly can in order to ensure that we can replace that facility. We need to move as quickly as we possibly can on building a new remand centre and a new correction facility.

In the interim, you will be aware that $1.5 million was committed in the budget to extra space and extra cells at the Belconnen Remand Centre. The correctional facilities group have worked extraordinarily quickly on that, and I expect to be able to have those opened in the next couple of months.

We have been aware for some time of the difficulty of staffing. I have discussed this issue with the head of corrections on a number of occasions. We are still going through a proper process to make sure that the staff we employ are appropriate and can be appropriately trained for the particular task at hand. So there is constant advertising, taking staff and moving them in there. They did inform me that there would be a shortage for some time. There have been some double shifts for people to deal with. My understanding is that the training process is under way in order to ensure that we can reduce the shortage.

It is very difficult for me to respond, particularly without notice, to a specific case. It may well be that there are other issues about the person that I am not aware of. I find that that is often the case. It may not be in this case. There are often other issues that I may not be aware of. If you would like to provide us with the details of the person, I would be delighted to ask questions and get back to you.

Public housing

MR WOOD: My question is also to Mr Moore. Minister, when you were making comments about the recent increases in public housing rents you indicated that concerned tenants could seek a review from ACT Housing. This indicates there could be problems in the process. Minister, could you tell me about that process? How was it carried out? What was the methodology? Was it just a desk job? How did it get under way?

MR MOORE: One of the things that are most important is that it was made very clear that this did not undermine anybody's ability to use the full process, which is an appeal to the tribunal. Therefore, Housing put in place an administrative process—a desk job, as

you describe it—in order to say, "It may well be possible that there is something we have missed. There is something here that does not add up and we can resolve the problem for you in an administrative way." I think that is a very sensible way to approach it because sometimes mistakes are made in a particular case and they can be resolved easily without the person having to go through that process.

My understanding is that there were a relatively small number of people who approached the department, something in the order of 100, as I recall. Of those, a very small number went on to appeal to the tribunal, as is their prerogative. There is no disincentive for people to do it. It is just an attempt to see whether we can resolve their particular problem in the first place.

Mr Wood, it seems to me that what Housing put in place was an attempt to resolve these problems. When the letter went out to people to indicate to them that the rents would rise if they were not on a rebate, that offer was made to them, as well as being reiterated by me publicly.

Belconnen pool

MR RUGENDYKE: My question is to the sports minister, Mr Stefaniak, and relates to the proposed Belconnen pool development. As well as the specifications for the construction of the pool facility, did the tender documents include ancillary aspects of a complementary nature that could broaden the uses of the final development?

MR STEFANIAK: I am not quite sure that I understand the last part of the question, but I think I do.

Mr Rugendyke: Did the tender allow for other ancillary things?

MR STEFANIAK: The government wanted to see what we were told by the competition policy report. The public contribution in that, which we wanted to see as a minimum, was a 50-metre, eight-lane pool—I was glad to see that the proposal is, I think, for 10 lanes, which gives it lots of possibilities—with seating for 800 people, a sound system and a warm-up pool of 25 metres which has to have at least three lanes. I understand that the winning proposal is much bigger than that. There are lots of other things which the developer will be putting in as well. That is exactly what we wanted to see. The preferred proponent, obviously, had to beat other proponents and the more things they could add for the benefit of the community, the better.

My understanding is that the additional items, apart from what we wanted—the 50-metre, eight-lane pool and those other three items—include basketball courts, a hydrotherapy pool and a larger 25-metre warm-up pool. I think there is also provision or potential for slides. I do not know whether that is going to happen or is essential, but there is provision for it. There will be a number of other additional facilities there as well. I was particularly pleased to see on the plans, in making my announcement, that there was provision for indoor basketball and other indoor sports as well. I do not think that was in any of the other proposals in the saga of the aquatic centre. There are some excellent additional facilities there which certainly will benefit the community.

MR RUGENDYKE: I have a supplementary question. Were all of the tender applicants on the pool project made aware that the ancillary aspects could have included a licensed club and poker machines? Did they all know that?

MR STEFANIAK: Obviously, the possibility of that is there with the successful tender. I am uncertain as to whether anyone else put in for that as well. Obviously, there was nothing to stop them putting in whatever they wanted in terms of additional facilities. It is certainly common knowledge, because one of the proposed tenderers actually went to press a few months ago with a proposal—it was not actually in Belconnen; it was fairly close—which was an all-singing, all-dancing, different sort of complex. It may well have had that in it as well, but I am uncertain. I would have to seek advice on that. But there was nothing to stop any of the proponents from putting in any other suggestions that they wanted to, because the core things government wanted, according to the competition policy guidelines set down in a report of several years ago, were the four items I mentioned—the 50-metre, eight-lane pool, the warm-up pool, seating for 800 people and the sound system.

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

Farmers market

MR HUMPHRIES: Yesterday I took on notice a question from Mr Rugendyke on the farmers market being advertised and apparent ACT government support for that venture. I will table an answer, but the short answer is that QIC has advertised a proposal to develop a farmers market and advertised that this has ACT government support, but that claim is inaccurate and the government has asked QIC to withdraw any advertisements which make that claim. I table the answer. I present the following paper:

Farmers Market—Answer to question without notice asked of the Chief Minister by Mr Rugendyke and taken on notice on 22 August 2001.

Impulse Airlines

MR HUMPHRIES: I took a question on notice yesterday from Mr Corbell on Impulse Airlines and Qantas. Mr Corbell asked which milestones, if any, Impulse or Qantas had indicated they may not be able to meet. In replying, I indicated that at this stage one of the milestones would not be met but I would get back to the Assembly on the matter.

As I indicated at the end of question time yesterday, Impulse has not delivered on the regional operational headquarters facility within the required timeframe. Impulse has confirmed, however, that it intends to complete a heavy maintenance and engineering centre and that the overdue regional operations headquarters will be part of the centre. This will then deliver on this milestone. We will be advised of the timetable for completion shortly.

At this stage in negotiations, neither Qantas nor Impulse has advised the ACT that they will not be able to meet the remaining milestones. Indeed, in statements to date, Impulse has confirmed its intention to honour the agreement, and Qantas has indicated its commitment to working to meet the objectives of the territory. We are negotiating hard

to have either the unmet milestones or a variation on these delivered. If not, under the terms of the loan agreement, the moneys get repaid.

Qantas has suggested in negotiations that, in view of Impulse's changed circumstances and its new relationship with Qantas, there may now be more appropriate milestones. The ACT, Qantas and Impulse are scheduled to meet to discuss possible variations to the milestones. The government is willing to negotiate the milestones as long as substantial benefits are delivered to the ACT and the payments offered are commensurate with those benefits.

Housing

MR MOORE: Yesterday I took on notice a question from Ms Tucker with regard to single people on the housing waiting list. Her question referred to Lachlan Court, which was sold on 9 December 1999.

ACT Housing provides its new properties by a combination of purchase and construction. Between December 1999 and 31 July 2001, ACT Housing acquired 340 properties suitable for singles. Of those, 205 were bought; 135 were built. The properties comprised 56 one-bedroom flats 108 two-bedroom flats, 58 two-bedroom houses, 103 one-bedroom units for older persons accommodation and 15 two-bedroom units for older persons accommodation.

At 31 July 2001, contracts for a further 10 suitable properties had been exchanged but not settled, and there are another four suitable properties on which ACT Housing's offer has been accepted. ACT Housing remains committed to constructing about 26 units of older persons accommodation on one of the subdivided blocks at sections 46 and 47, Lyons. It also intends to spot purchase appropriate units in a private development on the other four blocks.

As at 23 August 2001, 35 per cent of people on ACT Housing waiting lists were single persons without dependants and 6 per cent were the single persons with access to children. That answers the last part of the supplementary question from Ms Tucker.

Drag racing

MR STEFANIAK: Yesterday Mr Berry asked me a question and indicated that he was somewhat uncertain as to part of my answer, so I am happy to assist him further. The question related to a study of the economic benefits of a new drag strip.

For several weeks now work has been progressing on the economic benefits of. and siting studies for, a potential new drag strip commissioned by the bureau of sport. I was happy for that to occur. I am happy to indicate to Mr Berry that there is, I think, $40,000. Part of that work should be completed very soon. I am advised that I should be receiving part of the full study, the economic benefit part, on either Friday , 31 August, or Tuesday, 4 September.

The siting study will probably take a couple more months. Fairly detailed work needs to be done there. The obvious site, I understand, is along Majura Road. Given that Mr Hargreaves wants to move the prison to Majura Road, I am a little bit concerned that

it might get a bit crowded there, but that certainly is the appropriate site. I look forward to receiving both the work on economic benefits and the siting study.

It was a shame when the old drag strip at the airport closed. It was a facility that brought a lot of enjoyment to many people and considerable economic benefit to this territory, together with a lot of other ancillary activities.

Mr Corbell: Tell that to Brendan Smyth.

MR STEFANIAK: Mr Corbell interjects. I would refer Mr Corbell to the court cases which, as I indicated yesterday, show that there is very little, if anything, the ACT government could do. Having had a look at the original contracts, which date back to the 1980s, as a lawyer I am somewhat perplexed as to how those were initially executed. However, that is unfortunately water under the bridge. I am personally very sad to see that great facility go. It is important to see whether it can be replicated and whether it is good economics to do that, and to see what is an appropriate site. Given that the siting study will probably take a couple more months, I think the final documentation will be of great assistance to whoever becomes the government after October.

Papers

Mr Speaker presented the following paper:

Auditor-General Act—Auditor General's Report No 5 of 2001—Administration of Payroll Tax, dated 22 August 2001.

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

That the Assembly authorises the publication of Auditor-General's Report No 5 of 2001, entitled Administration of Payroll Tax.

Older people

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (3.18): Mr Speaker, for the information of members I present the following paper:

Older people—Copy of the first implementation progress report—Towards a society for all ages: Forward plan for older people in the ACT 2000-2003—dated 30 June 2001.

I ask for leave to make a statement.

Leave granted.

MR HUMPHRIES: I am pleased to have tabled this paper today. It is part of the government's commitment to the International Year of Older People, which was 1998. In response to the challenges of an ageing population, government developed the *Towards a society for all ages: forward plan for older people.*

The forward plan was the result of an extensive consultation process. *Towards a society for all ages: forward plan for older people* was launched on 23 June 2000. The plan sets out the directions for ACT government programs and policies for older people, outlining four key action areas: community attitudes, community participation, maintaining independence, and urban planning and design.

This first annual report details progress on the commitments over a 12-month period up to 30 June 2001. One of the key achievements of this report is that work commenced on all 46 commitments in the initial 12 months of what is a three-year plan.

The 46 commitments outlined in the forward plan affect all areas of the ACT government. Some are agency specific while others are whole-of-government commitments. The plan is intended to be a dynamic document, and as such incorporates flexibility and allows for strategies to be readjusted to respond to changing needs and emerging issues.

In this light, the government has developed five new initiatives for the forward plan. These relate to a review of concessions, establishment of a falls clinic, enhancement of older persons mental health services, establishment of a security hardware subsidy program and review of the outcomes of the mature Canberra workshop.

Also, to canvass community views, a jointly organised Council on the Ageing/ACT government workshop, "A mature Canberra: emerging issues and opportunities for older people", was held in June. This workshop brought together a broad range of players and participants from the ACT and interstate to discuss key topics such as finance, services and accommodation. It focused on strategies and actions needed to face these issues and opportunities. As a result of the workshop, a new commitment has been included in the forward plan to address the issues raised at the workshop. These include problems and needs associated with accommodation, and services, particularly health and finance.

I understand that the ACT Council on the Ageing has commented on the report and considers that overall the report reflects good progress on the commitments for the initial 12 months of the forward plan for older people.

I commend this paper to members as a demonstration of the government's commitment to ensure that older people in the ACT are able to lead productive and fulfilling lives as valued members of our community. I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative

Kingston foreshore development

Ministerial statement

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (3.21): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement concerning the Kingston Foreshore stage 1A joint venture.

Leave granted.

MR HUMPHRIES: Mr Speaker, section 10 (3) (b) of the Kingston Foreshore Development Act 1999 requires that, as the responsible minister, I present a statement of the particulars and reasons for the stage 1A joint venture.

The Kingston Foreshore Development Authority expects stage 1A to set a quality benchmark for subsequent development stages and favours a joint venture to ensure effective control of design and building standards. In this regard the joint venture partner has been carefully chosen to provide important expertise in project management of major urban development projects. The joint venture is also expected to reduce the call on government funding to service the land by achieving a commercial rate of return.

On 7 February 2001, the call for expressions of interest was advertised nationally for prospective private sector participants to form a joint venture with the Kingston Foreshore Development Authority to develop stage 1A. To ensure the process was duly carried out, the Kingston Foreshore Authority engaged PricewaterhouseCoopers Legal as probity advisers and Deloitte Touche Tohmatsu to provide financial advice.

Following a tender process that included all the parties that had lodged expressions of interest, St Hilliers Pty Ltd were selected by the authority to participate in the stage 1A joint venture. The authority board considers that the St Hilliers proposal clearly represents the best overall value to the territory from both commercial and design perspectives.

The Kingston Foreshore Development Authority board found St Hilliers to be commercially sound and experienced in developing quality medium-density projects, having successfully delivered several joint ventures in similar public/private sector projects interstate.

The proposal will provide around 189 residential dwellings and 800 square metres of commercial space, and has been assessed by an expert panel to contain standards in urban design and ecologically sustainable development principles that will serve as appropriate benchmarks for future development stages.

In agreeing to develop stage 1A as a joint venture, the authority has undertaken a thorough analysis of the financial, market, legal and operational risks. This is an unincorporated joint venture that is based on sound commercial principles to provide an acceptable financial return whilst prudently managing debt and risk exposures.

I present the following paper:

Kingston Foreshore Development Act 1999, pursuant to section 10 (3) (b)—Kingston Foreshore Development Authority Stage 1A Joint Venture.

I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

Community Referendum Bill 1998

Debate resumed from 28 May 1998, on motion by **Mr Stefaniak**:

That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (3.24): Mr Speaker, the Labor Party has previously opposed the Community Referendum Bill, and it is still opposed to the concept this time round, for very much the same reasons as previously expressed.

It is difficult to see how this bill will strengthen our democracy. The ACT and the Assembly are still of a size where members are readily contactable by members of the community, who can lobby us individually or in groups on particular issues or legislative proposals.

We have all experienced that lobbying which, for my office—I did test my memory on this—probably peaked in relation to the supervised injecting place or perhaps the commercial and retail tenancies legislation, though at the moment I am copping an enormous number of representations in relation to egg labelling as well.

These are very disparate issues affecting different groups, but the lobbying on each was intense, as opposing groups sought to get their views across. This bill, in the opinion of Labor Party, is simply an expensive way of achieving the same end.

When the Chief Minister was proposing the referendum on drugs policy earlier in these sittings, it was estimated that the referendum would cost $210,000. This bill proposes that any group who wants a legislative proposal sent to a referendum can, with minimum support, do so. The referendum would be held in conjunction with an election, or if it was not an election year, on a community consultation day. This means that we could be facing a referendum every year, and they may not necessarily be single question referendums either.

The bill provides not just for the citizen-initiated legislative proposals to be put to a referendum. Any legislative proposal before the Assembly can be subject to a referendum. Last year 112 bills were presented to the Assembly. Eighty-three were government bills, three came from an executive member, and 26 were private member bills. The Assembly considered and voted on 90 bills. Of the 90 bills presented, 86 were passed and four were rejected. Not all of the 86 bills passed would have been passed unanimously, so there would have been a substantial number of bills that the Assembly, had it so wished, could have referred to a referendum under this bill.

The question is therefore to be asked: where does that leave responsible, accountable government? The danger is that it would be transferred to extremists, pressure groups and power elites with a vested interest in obtaining a particular result on a particular bill. Those pressure groups and power elites that are best organised and well funded would be best placed to organise and run the campaign needed to obtain the result they desired. The Assembly would potentially become a rubber stamp to such groups.

Our democratic system of government, as members are very much aware, relies not just on the freely elected Assembly and citizen input at elections every three years. Mr Moore, in the article "Undermining Democracy", expressed my views well in relation to this matter. He wrote:

A free press, an independent broadcaster and an active citizenry help to ensure that people are aware when the government does take questionable initiatives, perhaps trampling on their interests. And the institutions of representative government, the courts and other less formal tribunals and channels of appeal help to make it possible for people to have their complaints heard.

Mr Moore went on to say:

Allowing citizen-initiated referenda would directly undermine these institutions of democratic contestability.

One of my predecessors as Leader of the Opposition, Rosemary Follett, made some telling points in her 1995 speech against a similar proposal. She pointed to experience with community or citizen-initiated referendums in the USA and New Zealand. I think it is fair to say that the history of CIRs in those countries reveals that some of the experiences have not had happy or enduring results.

In one noteworthy referendum in New Zealand there was significant community support for a particular initiative—I do not have the detail of it—which was completely ignored by the government after the referendum. What would happen in that circumstance under this bill? Clause 31 of the bill only requires the Chief Minister to present a proposed law approved by a referendum to the Assembly. There is no obligation to pass the bill. There is nothing to prevent amendment of the law. We all know that many bills that have been presented to the Assembly simply sit on the notice paper, with no action being taken. That would most likely be the fate of proposed law approved by a referendum with which the government of the day, if it has the numbers, disagrees.

Apart from the direct cost of conducting the referendum that I have referred to before, there would be the costs of providing the public service to the interest groups to prepare the proposed law, the Chief Minister preparing an analysis of the costs and benefits of the law—these are all issues raised in the legislation—the Auditor-General reporting on that analysis, preparing before and against cases and distributing those cases to every household in the ACT, and the unquantifiable cost of imposing the will of the majority on the minority, with consequent dissension in the community.

The question that must be asked is: why would we go to that expense when our current system is so open to the community? Community groups have no difficulty in contacting members, putting their viewpoints across and influencing decisions made by members. Because members are so exposed to the community, they are able to place particular decisions in a broader context and take account of the most recent developments in an issue and vote accordingly.

A referendum question, with its written for and against cases, is necessarily frozen at a particular moment in time. In that case the holding of a referendum on a proposed law may effectively block worthwhile initiatives by an ACT government that may be based on later and better evidence. There could always be a demand by opponents to any new

policy that any favourable referendum result be implemented regardless of later developments or that the later proposed law be again referred to the community.

As I said earlier this week, government by referendum poses some problems in a democracy. Little provision will be made for minority groups and interests. A referendum process on single issues can be captured by well-funded, well-financed self-interest groups at the expense of community welfare and cohesion and minority groups.

Essentially, governments are elected to govern. That means that parties who aspire to government have to take detailed and clearly articulated policies to the electorate to allow proper choices to be made by voters. The government of the day must show the leadership to confront difficult issues. If an issue has to be resolved by government after or between elections, then the government must do so, and it takes its chances at the ballot box in the following election.

In summary, the bill will require a referendum that will be extremely costly and that will be inimical to good planning, to committee process, to reliance on expert advice, on the simple notion that governments are elected to govern.

Those are some of the practical and, although not at a particularly deep level, some of the philosophical objections to this proposal for a citizen-initiated referendum. For more philosophical issues around the meaning and workings of democracy, I am indebted to Mr Moore for the paper he prepared.

Mr Moore: I am about to read it.

MR STANHOPE: I am conceding, Mr Moore. I presume that paper will be the basis for Mr Moore's speech. I hope it is. I agree almost in toto with the fundamental objections to the CIR which Mr Moore outlines in his paper and which we will have the benefit of Mr Moore now addressing. But I would not like my contribution to this debate to be considered as just the issues I have raised, which go more to the practicalities and practical issues of objection to CIRs. I think there are deeper and more fundamental objections which we as a legislature should express and should take into account and which should affect our vote, flavour our vote or determine our position on this. Mr Moore has set them out extremely well. I simply indicate in advance that I support the points that Mr Moore will make on this matter.

MR MOORE (Minister for Health, Housing and Community Services) (3.34): Thank you, Mr Stanhope, for that introduction. When the idea of citizen-initiated referenda was first raised I was attracted to the idea, except that I always felt some discomfort with the idea. It was in discussion with a friend of mine, somebody with whom members of this Assembly are familiar, Professor Philip Pettit, that I was able to distil exactly what it was that was creating the concern for me. When this was being debated last time around, he suggested that perhaps we could do a joint paper on it. I am indebted to Philip for his work and effort in educating me and in jointly writing the paper with me. The article was published in the Commonwealth Parliamentary Association magazine in April 1997.

The citizen-initiated referendum allows ordinary people to trigger plebiscites. Whatever its dangers in other respects, it appears to recommend itself on democratic grounds. But this is a grave mistake. CIR is inherently anti-democratic.

Democracy, we are told, means the rule of the people: the "cracy" of the "demos". But at the heart of democracy there lurks an ambiguity. For there are two saliently different ways in which we may understand the word "people" and so two contrasting ways in which we may interpret the will of the people. This is fundamental to what we are discussing today.

The first way of understanding the people is to take the word to refer en bloc to the people as a collective. This approach casts the people as an agent distinct from ordinary individuals—as a group, in other words. It suggests that the people, this group, has its own wisdom and wishes and that it is capable, almost like a board of directors, of giving a mandate to government. Construed as a collective agent, the people become as inscrutable and as unpredictable a master as a royal despot ever was.

The second possibility of understanding the word "people" in this context is to refer not to anything as abstract and unified as a collective agent but to those ordinary individuals taken severally, taken individually, or in small groups, who make this collectivity. People in this sense remain individuals and as individuals in their groups and independence. They often diverge from one another in their traditions, the allegiances they endorse and their interests and tastes.

Does democracy require the rule of the collective people, taken as a singular abstract entity, or does it require the control of government by ordinary individuals? That is the fundamental question we are dealing with today.

The rule of the collective people, however we mystify its unity, would come down in practice to the rule of the majority. And the rule of the majority, taken to its limit, is quite likely to involve majoritarian tyranny. I referred to this concept in the debate on a particular referendum earlier in the week.

Individuals who belong to minority ethnic or religious groups, individuals who espouse minority causes and individuals with minority tastes are liable to find themselves dominated by a collective will—the majoritarianism we are talking about. They may find that on certain issues they get no hearing and have no influence. From their point of view, they might as well be subject to the will of a royal ruler.

Democracy is not a decent ideal if it can mean something as objectionable as majoritarian tyranny. So we conclude that what democracy must mean is the control of government by ordinary individuals, and those ordinary individuals being able to rely on the government to protect and to nurture them.

What is required for a democracy where ordinary individuals control government? What is ideally required, in a word, is that every public decision, even those decisions which originate in the collective will, should be individually contestable. People should be able, in their individual and group affiliations, to contest any pattern of decision-making that does not treat them as equals with others. That is the fundamental we are dealing with: equality.

In particular, they should be able to contest such decision-making effectively. There should be civil and institutional arrangements in place which ensure that the challenges are judged by almost everyone's criteria in a relatively impartial way.

Contestability is the second element of a vital democracy. Contestability is promoted and practised by a variety of institutional arrangements, all of them subject to possible amendments and additions, all of them dependent on a reasonable level of social welfare and education. A well-designed constitution or a bill of rights ensures that governments cannot do the sorts of things that it certainly would be reasonable for various groups to contest.

A free press—Mr Stanhope quoted from this earlier—an independent broadcaster and an active citizenry help to ensure that people are aware when the government does take questionable initiatives, perhaps trampling on their interests. And the institutions of representative government, the courts and other less formal tribunals and channels of appeal help to make it possible for people to have their complaints heard.

Allowing citizen-initiated referenda would directly undermine these institutions of democratic contestability. It would make it easier for individuals who happen to belong to a majority on some issue to mobilise others in that majority and to force their view, at whatever costs to the interest of the minority. It may sometimes be advisable for a government to decide on recourse to a plebiscite, though such a decision should always remain contestable; but it should not be possible for individuals to trigger such a devastatingly final dictate. I will come back to why it is such a devastatingly final dictate, why it has a much stronger moral power than, say, a piece of legislation that passes through the Assembly.

Legislating for citizen-initiated referenda would expose anyone with minority characteristics to the wayward electoral will of their fellows. And it is important to remember that all of us, in some respect, are in a minority. We may hold different religious beliefs from the majority; we may identify with a minority ethnic group; we may accept minority views on any of a variety of issues; or we may just have minority interests and tastes. We may want our children to have a secular or religious education; we may like keeping dogs; we may like riding a bicycle in town; we may have invested in an open fire.

If you are in a minority in any such dimension, then the availability of the citizen-initiated referendum would mean that you are now vulnerable to a new form of incontestable decision-making. You can hope and pray that someone in the majority does not succeed in mobilising majoritarian feeling against you. This is an aspect under which the government is entirely free of control by you and your ilk. You are no better off than the subjects of an arbitrary monarch or a dictator. In fact, you are worse off, because it carries—and I will come back to it—the morality of a majority.

If the idea of allowing citizen-initiated referenda has appealed in recent years, that can only be because it seems to go well with democratic sentiments. On the surface, it does seem to go well. After all, the dangers of the initiative are well known: it can lead to inconsistent decision-making, foster the influence of temporary passion or fashion, offer an opening for cranks and those with bees in their bonnets, and so on. But what we now

see is that the democratic appeal of the citizen-initiated referendum is also spurious. The legislation Mr Humphries put up does deal with a number of philosophical issues I raise.

CIR may appeal on the grounds that it gives the collective people, the people considered as a single agent, control over government. But democracy, properly conceived, does not argue for that sort of collective dictatorship. It requires that ordinary individual agents can exercise influence over government; they can effectively contest any pattern of public decision-making that appears not to take their interests into account. On many occasions in this chamber and outside, I have suggested that the real test of democracy is not how we handle the majority but how well we look after those who are the most marginalised and the minorities in our community.

The citizen-initiated referendum is an inherently anti-democratic device. It would empower the will of the collective people, releasing it from the traditional restraints on government. It may appeal to those who think, mistakenly, that democracy means all power to that will. But in so empowering the collective will it undermines that individual contestability of public decision-making and can have no attractions to those who realise that the essence of democracy is ensuring contestability, giving ordinary individuals, not the collective abstraction of "the people", an influence on public decision-making.

The collective people, I said earlier, has a status in relation to individuals akin to that of a royal personage. But in some respects the status is even greater. For whereas individuals can easily find support in complaining about, and plotting against, a royal master, the collective people stands beyond any moral reproach. By an irony of language, those who would remonstrate against the collective will must suffer the ignominy and ostracism that go with not trusting the plain people and holding out for an elitist point of view. Precisely because of its immunity to moral criticism, the collective people represents the worst of all dominating dangers, even worse than the despot and the dictator: the greatest threat to democracy in its proper contestatory sense.

The appeal of the citizen-initiated referendum, then, is based in the mistake of understanding democracy as the rule of the collective people, not the control of government by ordinary, everyday individuals. Let democracy be properly conceived—let individuals be put back at the centre of democratic concerns—and the opinion that many hold of the referendum idea should dramatically change. We should see it for what it is. It is a dangerous instrumentality that is as foreign to the spirit of democracy as demagoguery or propaganda.

It is nice to add to the debate today from a carefully prepared paper that took a great deal of work. Every time the citizen-initiated referendum raises its ugly head yet again, it is worth going back and looking at those fundamental principles of democracy. Having done so, I urge members of this Assembly once again to ensure that the issues before us today are given a very sound thumping.

MRS BURKE (3.45): Mr Speaker, I would like to add some practical reasons for supporting of this bill today. I believe that this bill gives the broader community the ability to have a say in what laws are made for the territory. Direct legislation is a very effective way of taking controversial issues out of the hands of extremists, pressure groups and power elites. The bill encourages and promotes better input from the

community, and enrolled residents do not have to be members of this Assembly to have a say.

Whatever happens in this community, the rules by which we live should not be decided by a few politicians and should not be imposed by narrow interest groups via the political party in power at the time. This bill takes away from just a mark on the ballot paper and gives opportunities to influence governments and oppositions in what policies the parties present in parliament. It takes the process closer to the people and makes our system more democratic.

This bill increases involvement in a system that can often disillusion people, particularly our young people. It therefore is a way of engaging more people in our community in a practical and valuable way. Our young people are given an opportunity to have a say without being aligned to any party, and they can put their views to the parliament as a bill to be considered.

Many people would raise many arguments on this issue, but I would like to refer to page 2564 of *Hansard* of 25 August 1994, to a speech made by Mrs Carnell at that time. She said:

The argument is sometimes run that noisy minorities will gain too much influence; that giving people the power to initiate their own laws will mean that fringe groups can get up lunatic proposals. The fact is that this bill has the opposite effect. At present it is much easier for a noisy and well-organised minority to get its way by persuading a few key politicians, as we know, than it would be to persuade a majority of all voters. That is why lobby groups flourish under the current system. Direct legislation is a very effective way of taking controversial issues out of the hands of extremists, pressure groups and power elites.

An alternative argument is also put, but this one asserts that minorities will suffer at the hands of the majority.

That has been mentioned in this place today. Mrs Carnell went on to say:

Experience also shows that the opposite is true. For example, notwithstanding the great unpopularity of the small Communist Party in Australia in 1951, a referendum to ban it was lost. In Queensland the Government introduced daylight saving against the wishes of a minority living in rural areas, but when the question was put to a referendum most Queenslanders chose to respect the special needs of people in the country and voted against daylight saving.

The cost of running a referendum is sometimes cited as the reason for denying the community the opportunity to initiate laws and vote on them. To the extent that there is some expense, it will be reduced by ensuring that most referenda are held at the same time as general elections. Another factor that would reduce cost, and in some cases eliminate it altogether, is that all referendum proposals will first be tabled in the Assembly and the Assembly can pass the law itself if it wants to, in which case no referendum will need to be held.

This brings me back to the referendum. This would have been an excellent way of empowering the Canberra community to be involved and have a say in the drug debate. Do members in this place want to just keep all the power, or do they want to share the

governing with the community? We want to share it. Modern democracies have evolved from a period when control was indeed in the hands of a chosen few—the aristocracy and the property owners.

We want to consult with the community. We want to work with what the community wants. The community does not want any more power for politicians. The only power that needs increasing is the power of the people themselves.

MS TUCKER (3.50): The Greens will not be supporting this bill, for the same reasons as we did not support the bill when it was presented to the Assembly in 1995 and 1996. We have not seen any changes since then to the circumstances that led to our previous rejection of the bill.

The issue of community-initiated referenda has been around for a long time—fuelled, I believe, by a growing alienation in the community towards our political institutions. Many people feel a sense of helplessness, frustration and powerlessness regarding the decisions being taken by politicians, supposedly on the community's behalf. They believe that politicians have become a law unto themselves and too influenced by various vested interests, which is the line that Mrs Burke apparently agrees with, unless I misunderstood her. It is concerning if someone within a parliament thinks that that is how we operate.

The idea that people should be able to vote directly on issues of concern to them, rather than leaving it to politicians, therefore has some appeal. But it is a very simplistic response that ignores the complexity of public policy-making. The fact that CIR has been promoted primarily by a range of right-wing groups and individuals confirms to me that there is some doubtful reasoning behind CIR. As one commentator in the United States said, the growing popularity of CIR has raised the spectre of something that once seemed unthinkable: not a government of laws, but laws without government.

The Greens are totally committed to allowing citizens to fully participate in the political process. Participatory democracy is one of the four so-called pillars of Green politics. The charter of the Greens, on which our party is based, states that the Greens want to increase opportunities for public participation in political, social and economic decision-making.

We can see a role for community-initiated referenda as part of a broader process of facilitating more community participation in politics, but we certainly do not see CIR as a substitute. We are therefore very hesitant about supporting this bill before we put in place the necessary checks and balances that would prevent these referenda from distorting the comprehensive consideration of important policy issues or from targeting particular minority groups or interests. We believe that greater effort needs to be put into improving the existing political process so that the public does feel more empowered to participate.

The Greens' view on CIR is that we support the extension of mechanisms for community participation in Assembly decision-making, including possibly the use of CIR, but these mechanisms have to be implemented extremely carefully to ensure that the disadvantages of CIR are fully overcome. If this is not the case, they are dangerous to the extreme.

If the community feels that representative government is failing, then we should try to fix it, not set up ways to circumvent it. We have often raised concerns in the Assembly about how decisions are made by the executive without the full involvement of the rest of the members and about the lack of community consultation by this government. Changes to the way that government and the Assembly operate could significantly improve negative public perception about politicians and hopefully reduce the feeling in the community that the issues of most concern to them are not being adequately addressed.

We believe it would be preferable for the Assembly to act in a more inclusive and participatory manner rather than let the community have to rely on CIR to get their views heard. Citizen-initiated referenda oversimplify complex issues to a yes/no vote by the public, who may not have the expertise or information with which to consider all aspects of the issue.

Imagine if there was an initiative to reduce property rates. It would not be possible through the CIR process to ask which government services the community would like reduced at the same time, because of the reduction in government revenue. CIR does not provide an opportunity for negotiation, compromise and consideration of alternatives.

Issues of public policy are by nature invariably complex, and it would be a betrayal of the community who elected us to put in place a CIR system that was unable to cope with this complexity. As members here would know, the translation of an idea into a piece of legislation entails much consideration of the details required to put that idea into practical effect.

Conversely, trying to understand the implications of other people's bills can also be very difficult. Even after a bill is drafted, we often resolve complex issues through amendment and round table processes, which often take time and negotiation. Expecting the community to undertake a thorough analysis of an initiative without the necessary background and experience, and perhaps having to do this on a number of issues on the so-called community consultation day or election day, is just asking for bad laws to be made. Even though an Assembly is not bound to pass a piece of legislation that has been to a referendum, the political pressure on them to do so would be enormous.

The whole idea of having just one community consultation day is abhorrent to the Greens. Democracy does not begin and end on election day. Community consultation should be happening on every day, not just once every three years. We would not want any government to think that CIR abrogates their responsibility to undertake full public consultation on issues as they arise.

Another problem with CIR is that the initiation of referenda is likely to be undertaken by groups that already have sufficient resources to mount a major campaign to get signatures and to promote their cause. An argument that has been put forward in support of CIR is that well-resourced lobby groups already have too much say over decisions in parliaments, more say than the general public. CIR is unlikely to change this. These groups will just use CIR where necessary to get what they want. The power of lobby groups under a CIR system could become more based on slick advertising, not the promotion of quality information.

In the United States collecting signatures for petitions has become an industry in itself. Minority groups and those parts of the community who are not well organised will still be discriminated against. For example, I understand that there was a CIR in California on the subject of whether illegal immigrants should get free schooling for their children. Other types of community consultation processes are necessary to ensure that the loudest voices do not drown out the soft ones.

I found it interesting when Mrs Burke—or maybe it was Mr Humphries—said that the lobby groups in this town have unwarranted power. I would love to know who these lobby groups are. When I talk to people in the community, I can assure you that they are not well resourced. Some of them are very small community organisations that probably do not even have an organised structure.

Mr Moore: Animal Liberation.

MS TUCKER: Mr Moore interjects, "Animal Liberation." That is a well-known lobby group that has an international presence. I know who informs the work of the Greens. It is often very small groups of community people who have the community interest at heart and who represent a particular view of a minority. These are basic human rights issues we are talking about here.

Mrs Burke said that a referendum on daylight saving was a great example of a referendum because it showed that the minority could not have its way. The will of a small group of people in rural Australia who were concerned about the change to daylight saving was not respected when the majority of people said they wanted to have daylight saving. The argument apparently is that therefore this is a good thing.

We know that Aboriginal people are a minority in this country. Say we have a referendum on capacity building in Aboriginal communities. According to the logic of Mrs Burke, we would quite possibly see support for capacity building for the Aboriginal community denied. There is a serious question to be asked here. Mr Moore alluded to it in his speech. What are we talking about here? If we are so afraid of minorities, which seems to be the rhetoric from the side that are for this bill, what is the relationship between that fear and basic human rights? That is what it will come down to.

A bill of rights is one of the fundamental prerequisites the Greens will be seeking before there is any consideration of using this kind of referendum. Mr Humphries, as a good typical Liberal, talks about financial implications. He says, "We have to test any resolution for its financial implications." I want to see it tested for its human rights implications as well. The Californian referendum is another example of that. I do not know whether Mr Humphries would agree that illegal immigrants in our country should be denied any support at all. I would be very surprised if Mr Humphries thought that was a good outcome.

Proponents of CIR also argue that money does not influence outcomes. This is not the case. In a six-year study of the outcomes of voter-initiated referenda in four states in the United States, the highest spender won in 78 per cent of the cases. In California more is spent on CIR campaigns than on election campaigns for the state's legislature.

Imagine a referendum on a proposal to allow smoking back into enclosed public places. There would be nothing to stop the tobacco lobby mounting a huge campaign to sign up all smokers, a campaign which could not be matched by individuals or groups with opposing opinions, even when the health implications of passive smoking are well known.

A major concern to the Greens also is that the ACT or Australia as a whole does not have formal legislation to protect the rights of minorities or to protect fundamental social and environmental objectives. This bill does nothing to address the issue. The Chief Minister is obliged to estimate the financial costs or savings of the proposed law but no obligation to assess social or environmental impacts.

We are prepared to further examine CIR as part of a broader process of getting more community participation in government decision-making but are not prepared to support this until a number of conditions are met. These conditions include, but are not exclusive to, implementation of a bill of rights, community right-to-know legislation, improved freedom of information legislation, Assembly procedures changed to provide for more involvement by non-executive members in government decision-making, implementation of effective and extensive community consultation processes, and all the issues I have raised about the unequal power of presenting information in the normal way that referenda are presented.

I want to make one point to Mr Moore, who seems to have gone. He put the case very well, but I am interested in his emphasis on contestability and his analysis of democracy and why this simplistic approach of what the people say is not in the interests of democracy. As I have explained already, the serious implications are human rights and what we see civilised society as being.

Contestability is something Mr Moore should think about in terms of the debate we had on the GATS and globalisation. I spoke at length about the democracy deficit being created by internationalisation of policy through the World Trade Organisation. If Mr Moore is seriously interested in contestability and democracy—I think he is, but it probably did not suit him at the time to focus on it—he should look a little bit more closely at the World Trade Organisation dispute-settling process. If he does, he will find that he cannot possibly support the World Trade Organisation and its workings. The dispute settlement process does not allow equal rights for contesting decisions. The internationalism of policy, for Mr Moore's interest, has real implications for the very principles and values he just argued for.

The Greens will not be supporting this bill. I will be sorry if it gets up today, because I think it has serious implications for democracy. It is a populist attempt to convince people that the government is interested in democracy. This government has had many opportunities to show that they are committed to democracy through their own processes. I am afraid that they have not done this. They have been very inconsistent in their commitment to consultation with the community. As I have said several times in this place, they produced a good consultation protocol for one period of time when it was being managed by an officer—I do not know whether it still is—who was very diligent and worked hard to get cross-government implementation of that consultation protocol. *(Extension of time granted.)* If the government had stayed with that commitment, I think we would have had a much happier community in the ACT.

The community is seriously angry about how this government has listened to it. This government has upset the people through its processes in terms of democracy. Now they come out with this approach of citizen-initiated referendum which clearly fails to take into account the broader responsibility for the parliament.

MR RUGENDYKE (4.05): I have listened carefully to all these very good speeches about this issue from Mr Stanhope, Mr Moore, Mrs Burke and Ms Tucker. They spoke very eloquently, searching for a direction in which to head in this debate. I looked to a debate on 4 December 1997 that seemed to sum it up fairly well. These words came from Mr Moore:

In summary, this legislation is anti-democratic. It does not look after the minorities in our society.

I will not repeat the next part of the quote about contestability in case of more derision from Ms Tucker, since she seemed to have a concern about that. I also read in that debate concern about citizen-initiated referenda in California where, among other things, it had been used to vote down taxes and to prevent tax increases.

Mr Speaker, I have heard nothing in this debate to persuade me to support this bill. All the speeches in this debate from those opposing the bill seem to be much more sensible than those supporting it. I will not support the bill.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (4.07): While I find the bill not very sensible, Mr Temporary Deputy Speaker, I would like to make a contribution to this debate. This will be the fourth time that the Liberal Party has presented this bill to the Legislative Assembly.

Mr Stefaniak: Fifth time lucky, mate.

MR HUMPHRIES: The fifth time, is it?

Mr Stefaniak: It sounds like it.

MR HUMPHRIES: The fifth time?

Mr Stanhope: It sounds like the tenth to me.

MR HUMPHRIES: It sounds like about the tenth time, Mr Temporary Deputy Speaker, but my colleague the Attorney-General tells me it is the fifth time. I will take his word for that. The fifth time that—

Mr Stefaniak: No, I think it is the fourth time, mate. I said maybe fifth time lucky at working out the numbers. That's what I meant.

MR HUMPHRIES: Yes. Well, it is the fourth time by my counting that we have presented this bill to the Assembly, and I think it will be the fourth time this bill will be defeated. It is interesting that this legislation is by no means new in concept. This idea is one which is now practised in a large number of countries around the world, including

New Zealand, and has been used at a number of levels in a number of other countries such as Switzerland, the United States and elsewhere. It is an idea that has had a long Australian base of support as well. For most of last century the Australian Labor Party had a position on its platform in support of CIR.

I think the question that we need to ask ourselves is why, in the beginning of the 21st century, would we be coming back to an issue like citizen-initiated referendum? What is the argument for the need in our democratic process for this to happen now?

I think it is worth reflecting for a moment on the way in which our system of government has evolved. Democracy in its post-ancient manifestation developed principally in the United Kingdom, in England, during the Middle Ages. Gradually the idea of parliamentary democracy became a concept which was exported eventually to other parts of the world. Today a very large proportion of the world uses a Westminster style of parliamentary representative democracy.

The idea of everybody taking part in decision-making was not exactly the concept that gave rise originally to democracies or to parliaments being set up. The idea was that power elites would be able to take part in decision-making in conjunction with the rulers of the day, generally the king or the queen. As those concepts of participation took off and there was involvement by parliaments, generally of ruling elites, people with money and power and land, gradually the franchise for those parliaments over succeeding generations widened, particularly in the 19th century, and the idea of a true democracy, the idea of everybody over a certain age being entitled to cast a vote and to influence the results of these parliamentary elections, became commonplace.

In each of those iterations in the democratic or parliamentary experience the idea was that people would be chosen as representatives who would make the decisions that affected the future of the community. It would not be individuals directly deciding. The community would not directly decide; it would be done through representatives. The reason is obvious: that those sorts of systems of government, those sorts of communities, were far too large and far too spread out to be even remotely capable of being able to come together at any one time or in one place to make a decision. The idea which had existed in a form in places like ancient Athens, where all the citizens could come together in one place to make a decision, or at least all the male free citizens could come together in one place to make a decision, obviously was never going to work in much larger communities.

Mr Temporary Deputy Speaker, the question is whether those inhibitions which led to representative democracy being the best form of government still really apply in this day and age. We live in a society where citizens have an unprecedented level of education. People today almost universally have finished at least secondary schooling, and a large proportion in this community, for example, enjoy tertiary qualifications or post-secondary qualifications.

People are affluent. They have a large measure of free time, leisure time. People have the time to peruse newspapers, watch television broadcasts of the news, peruse magazines, be involved in decisions or processes which lead to debate on particular community problems or issues, such as being involved in representative organisations like P&C councils, or LAPACs, or community organisations of one sort or another.

People in a town like Canberra have a high degree of exposure to the workings of government. Many people are working for government as public servants. They understand how things work and what happens. They understand the background of and the reason for many decisions. They understand when there is not an adequate background or reason for certain decisions to be made.

We reach a stage, I think, where we need to question the idea, inherited from several hundred years ago, that we elect representatives and send those representatives off to a certain place, a parliament, and there is no comeback for those citizens until the next choice in three years time, or whenever it might be—at present it is four years—when there is another election of those representatives. The idea that we can entrust them with all the decision-making powers for that three-year period or longer is an idea which is or will be under serious threat in the future. People want government to be more responsive to what is going on. When I say government, I mean and include parliament in that concept.

Mr Berry: Nobody rang me.

MR HUMPHRIES: They want people to be able to be involved. They want people to be able to be involved in decision-making processes.

Mr Berry: Not one caller have I had that has said they want CIR.

MR HUMPHRIES: I listened to the previous speeches in silence, Mr Berry, and I ask for the same privilege from you.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Yes, and I do too, Mr Berry. The Chief Minister has the call.

MR HUMPHRIES: I think in 50 years time, or 70 or 100 years time, people are going to look back on this age of parliaments which are unaccountable between elections as being a phase in democratic development which would be regarded as as quaint and outdated at that period in the future as today we would regard the idea that only men with land holdings are entitled to vote at parliamentary elections. These ideas are now considered to be untenable and to be the product of a society which has disappeared. I think this model, one day, will suffer the same fate.

Ms Tucker said in this debate that the Greens believed in participatory democracy as one of the pillars of their philosophy of government and how society should run itself. I think that is not just a matter for paying lip service to; we actually have to put it into practice.

How do we allow people to take part in decisions? Of course, we can consult them. We can ask them to comment on things. We can put documents out and say, “Would you like to put your view forward about this document?” But with the best will in the world, Mr Temporary Deputy Speaker, there is a gross power imbalance in that situation. Members of parliament can reject a view with which they disagree. The fact is that they very often do. Not just governments, but parliaments and parliamentarians, if they do not like the idea, can be persuaded and are persuaded to give the idea short shrift. It doesn’t matter what people say, the idea almost always gets short shrift.

So what mechanism is left to consider different ways of being able to generate community participation in the decisions that affect this community intimately? We had earlier this week an opportunity for another kind of mechanism, a politician-initiated referendum, which was rejected by the Assembly. The argument used, including by Ms Tucker, was that it was inappropriate to refer social issues to referenda. I think that was her argument anyway. We have had several attempts in this place to engineer a kind of consultation process about the way in which a budget is put together, and that has met almost universal resistance around this chamber.

So I would say to people who today propose to put up their hand and vote against this CIR bill, "Do you believe in greater involvement by citizens in the decisions of this place, and if you do, what exactly are you in favour of? What exactly are we going to do to engineer a greater sense of community participation in the decisions that affect that community?" I would argue that it is a question that we cannot long ignore, because what I think Ms Tucker or Mr Moore referred to as the democracy deficit is growing larger every year.

I believe that organisations like the One Nation party are partly explained by that democracy deficit. The idea that people can be ignored to a large degree and their views not represented by the processes and systems in place leads in turn, inexorably, to a sense of alienation and a sense that something has to happen. I think One Nation is entirely the wrong response to that phenomenon, but we need to ask ourselves what is the right response. What do we do to change that dynamic?

I want to comment on some of the mechanics of this process. It is laid out in this bill and it has been put four times before this Assembly, so I do not propose to explain what the mechanism is. Members can see that for themselves.

Mr Stanhope said that there would be a referendum every year, potentially, under this system. It is worth reminding members that to trigger a referendum you require 10,000 electors signing a petition to say we want a referendum. In fact, well in excess of that figure. Mr Temporary Deputy Speaker, it is very hard to get 10,000 signatures on a petition. It is hugely labour-intensive to do that.

In the 12 years up until the end of last calendar year the ACT Legislative Assembly has received 289 petitions. Of those 289 petitions, only nine were of 10,000 or more signatures. Of course, that might not have been under the mechanism required by CIR, which means you have to have only ACT electors and you have to explain what the referendum is all about, et cetera, et cetera. So it is not easy. You do not get referenda every day under this mechanism. It is very, very difficult. Incidentally, to get a referendum in a year other than an election year you require 20,000 signatures, not 10,000, so it will not be happening often.

We have heard the argument from Mr Moore that CIR facilitates the oppression of minorities. I have heard that argument and I understand the potential there, but I think that what he ignores is the reality that when you give people power with that power comes some sense of responsibility. People might express a view in a telephone poll about euthanasia or abortion or the Gungahlin Drive extension route, whatever it might be, but when they actually have the power to make the decision, when a decision actually

is in their hands like the way they cast their vote on a ballot paper, I think a sense of responsibility cuts in and the way in which those powers are exercised is changed. I think the confidence which each of us in this place inherently has in the commonsense and integrity of the citizens of our community cuts in in a situation like that. If we were asking people every few weeks to cast a vote on some new issue, yes, I could accept the argument that we may well end up with people being consulted out, but this is not a proposal to do that. Quite the contrary.

I want to emphasise in closing that we do have a problem with the way government works, not just in this territory but across Australia. It is clear that many people feel a sense of disempowerment and they want to see the dynamics of democracy change. I believe that the process that we put in train here is heavily guarded against those sorts of problems which have been raised. It is, I think, the best manifestation of this concept which has been put as yet to any parliament in Australia, perhaps in the world.

This is a system which deserves serious attention. It will lose again today, I know, but the Liberal party believes in this concept and will return to the Assembly again and again in the future to put this forward. I predict that we or our successors one day will succeed with this because the community does believe that we need to change the dynamics of decision-making and they need more of a role in that decision-making, and this is one way of achieving that.

MR CORBELL (4.22): This has been a very interesting and thoughtful debate. What I want to contribute, I guess, is in some respects a response to some of the matters raised by the Chief Minister. The first of those is his assertion that the crisis in government and, using the Chief Minister's term more broadly, the crisis in government and parliaments, and the nature of representative democracy, is a result of the system in which that democracy operates. I reject that assertion.

The crisis in government and the crisis in representative democracy is not a result of the system. It is a result, in my mind, of the convergence and the homogenisation of philosophical belief. That is the crisis which has led to people feeling that parliaments and elected representatives no longer—

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Corbell, resume your seat. Gentlemen in the gallery, phones are not permitted in this chamber. Thank you very much. Mr Corbell has the floor.

MR CORBELL: It is the homogenisation of philosophical belief. This is a phenomena occurring around the world. The notion that there were different schools of thought as to how a society would evolve has come under challenge as we have seen an increasing merging towards the centre. The old left and right are no longer relevant in modern society in the same way they were 20 or 30 years ago. So the notion of achieving change and of seeing parliaments deliver on that change has come under challenge as a result.

That is the failing of government. It is the failure of ideas. It is not the failure of the system. That is one reason why people are turning outside of the mainstream political parties for support. It is why people are turning to Independents and minor parties. They are seeking an alternative idea base. It is not a result of the system itself. It is not a result

of representative democracy failing. So I think the underlying premise put forward by the Chief Minister is wrong in that respect.

Moving more directly to the issue of CIR, what is striking about this piece of legislation is that it comes from a government and from a party wholly committed to the notion of representation of minorities through the Hare-Clark electoral system. The whole rationale underlying this territory's endorsement of the Hare-Clark electoral system was that it allowed minorities within our community to achieve representation in the legislature. That is why we have people like Mr Rugendyke, Ms Tucker, Mr Kaine and Mr Osborne sitting here. Whilst we often vehemently disagree with their point of view, they represent an element of the Canberra constituency that would not be represented if we had a different electoral system which favoured larger major parties.

I think all members in this place recognise that in a single chamber legislature there are certain advantages in ensuring that the power of the majority is not so overwhelming that the voice of minorities should be silenced. But CIR runs directly counter to that philosophy, which I thought all members endorsed, because CIR does not respect the right of minorities. CIR does not safeguard their interests and, indeed, has the capacity to steamroll over their concerns and issues. That, Mr Temporary Deputy Speaker, I think is the most overwhelming and important argument from my perspective as to why this bill should be defeated today. The CIR bill proposed by this government runs contrary to everything they profess to believe in in relation to the representation of minorities in the legislature.

Democracy is a complex thing, and the urban governance of a city like Canberra is, I would have to say, increasingly complex as each year passes. As Ms Tucker said, public policy is complex, and good decision-making is not about black and white, yes or no answers. The inability of mechanisms such as CIR to allow for compromise, discussion and consensus building is something which I think undermines the whole purpose of why this place was established and why we sought to ensure that as broad a range of voices as possible was allowed to participate in the Assembly.

The other comment that the Chief Minister made was about the inhibitions which led to the establishment of participatory democracy in the Middle Ages, leading on to the more modern forms of democracy which we saw emerge during the Industrial Revolution and into the modern era. He argued that those inhibitions about the capacity of people to gather together in one place to make decisions were no longer relevant. It may be that with the introduction of certain mechanisms through information technology decision-making may be devolved in a variety of ways to individual citizens, but that still does not overcome the complex nature of many of the issues we as a society have to address. It still does not overcome the consensus building that needs to take place to achieve the best possible public policy outcome. Unless we have forums that allow for that debate to take place in an engaged, informed way, then notions of just direct decision-making, yes or no answers, will continue to remain at the fringes.

I do not rule out entirely the scope for direct decision-making or direct involvement of people in decision-making through mass mechanisms such as proposed by this bill, but we have to be very cautious about how we structure that mechanism, first of all, to protect the rights of minorities, and, secondly, to ensure that we simply do not get yes or no answers being put forward.

Mr Temporary Deputy Speaker, I am sure this bill will come back, and I am sure that the Liberal Party, for as long as Mr Humphries is in the chair, will continue to advocate this particular point of view. But the real challenge for the Legislative Assembly is not to say whether or not we should have this type of mechanism introduced into our democracy for decision-making. The real challenge is to look at what techniques, what mechanisms, we can use to engage people in meaningful ways about the decisions that affect them and about the issues that confront them as they live their lives as citizens in our community.

Far from attempting to use mass solutions, I argue that the micro-level community-based decision-making models are the ones that we need to strive to improve and refine. An example of that is the LAPAC model that the Chief Minister mentioned earlier. Local area planning advisory groups, whilst fundamentally flawed, I would argue, by the way this government has established them, do have the potential to engage people in a grassroots local community sense about the decisions that immediately affect their neighbourhood. Far from disparaging those models, far from saying that they are models we really find awkward or cumbersome, we should be looking at ways of using that sort of model to engage people in decision-making in a more meaningful way; to give them the information they need and to allow them to be contemplative, allow them to be engaged in a longer term view of what should be happening in their community, rather than simply mass mechanisms that say either yes or no. That is a simplistic approach by this government when more complex solutions are needed to the increasingly complex problems and issues our society faces.

MR BERRY (4.32): Mr Temporary Deputy Speaker, I heard somebody say earlier in the debate that the more often this debate occurs the more convinced they become that it is the wrong direction. I think it was Mr Moore. It is the same for me. Having seen the experience in other countries and thought about it somewhat over the years, it has become abundantly clear to me that this would be a dangerous step for the ACT to take, or anybody anywhere else for that matter, in terms of democracy.

Yes, it has superficial attractions. In fact, I think at this time of the electoral cycle it ranks of populism. I think it is a populist move to try to attract the attention of voters, a little bit like the populist move that seems to turn up at every election campaign—that we should have a council-style government. Well, we have a council-style government and a state-style government wrapped together. We have a democratic process. It is a multi-member system which enables people from outside the major parties to become elected. That can be a good thing or a bad thing, depending on the policies of those who are elected, and whether they are elected on particular policies or not. But that is a cycle in the democratic process which will ebb and flow from time to time. I do not have any particular difficulty with that. It is our job to expose the frailties of the politics of a particular grouping from time to time, and if we fail to do that then we fail to serve our respective electors.

I remember years ago what I think was described as proposition 13 in Reagan's California constituency, as I recall. It was about paying extra taxes. The citizenry were called upon to vote on whether they should pay more taxes, and of course they said no.

Mr Humphries: It was actually the Carter period. It was before Reagan.

MR TEMPORARY DEPUTY SPEAKER: Order! Chief Minister, you were heard in silence and I insist on that for Mr Berry.

Mr Humphries: I was assisting him.

MR TEMPORARY DEPUTY SPEAKER: I think Mr Berry can acquit himself well.

MR BERRY: I think Reagan may have been the Governor of California or something at the time. The end result was that there were less funds for community services in California and they were cut back, and the minorities were affected most by that decision. That has always stuck in my mind. I know there have been other citizen-initiated referendums in the US which have turned up results that some of us might agree with. There was one in Oregon in more recent times in relation to euthanasia, and pro-euthanasia succeeded. We might have our favourite issues here that we think could win in a citizen-initiated referendum. I probably have one, but I would not sell out on the principle merely to achieve a result by citizen-initiated referendum which would lead to an unsound political future for the territory as a result.

The system we have now involves political parties. People will always criticise one political party or another. It is up to us to demonstrate that we have a particular political philosophy that is more palpable to the community than the other side.

My colleague Mr Corbell made the point, I think, that, as far as the ordinary person is concerned out there in the community, there has been an amalgamation of the political philosophies of the major groupings within body politics. Well, that is true. Why is it so? I think that happens largely because of single member constituencies throughout the country. Because many of them have only very small margins between being in parliament and out of parliament, that tends to generate favouritism towards mainstream politics. That again ignores minorities, which is troubling to me.

I am sure I did not hear everybody speak but I heard most of them, and I suspect that there are many more reasons that could be raised in this place against the proposition that has been put forward by Mr Humphries. When it comes down to it, superficially, if you go to somebody out there and ask the simple question: "Would you like to have more say?", most people out there would say yes. But when you explain the internals of it, as has been done today in some very well thought out instructive contributions, I think most people would think again about this sort of an approach.

I think this has a bit to do with the electoral cycle more than the substance of the issue. I acknowledge that Mr Humphries has remained committed to it throughout his period in this place, but I still think the only attraction that it has is the superficial attraction of giving people more say, which, in the end, it might for the strong but it will not for the weak.

One other matter that Mr Humphries raised was the issue of One Nation. He blamed the system for the emergence of One Nation. I do not have any difficulty with the emergence. I do not like One Nation's policies or philosophies. I do not like the things they say about other people. There is not much about One Nation that I like, but I do not have any difficulty about its emergence because it heightened the debate and I think it strengthened the feeling of the community on these issues.

One Nation is in decline. It is another part of the cycle which I think will disappear when people recognise its weakness on many social issues. Yes, I think it emerged because of the very issues that Mr Corbell raised in his contribution to the debate. People felt alienated because there was a bit of mainstream concern rather than concern for those minority groups out there in the community. Somebody saw the opportunity and One Nation took off like a jet plane, but I think it is just about out of petrol. That is my view. There will be elements of it around for a while, and it is up to us as politicians to demonstrate that the particular philosophy that they pedal is dangerous in many respects for the future of our community. That is our job, as I said earlier. It is up to us to expose the frailties of those people who we think are going to damage society as we have come to understand and relish it.

Mr Temporary Deputy Speaker, I welcome this debate again. I go back to the point that I made earlier which was first of all made by Mr Moore. The more I hear of this debate, the stronger I am opposed to CIR because of all of the frailties which are exposed each time it is unravelled in this place. I do not worry about the debate coming back again because I think it will become weaker next time, because more and more will be able to be analysed as we go through the process.

The debate today has had far more depth than it has had in the past, not because of my contribution but because of others. As an observer of the debate over the years, it has had far more depth today than it has ever had, and I think that is a good thing. If for no other reason, I welcome Mr Humphries' introduction of it into the Assembly. That depth of understanding of this issue also exposes the shallow nature of citizen-initiated referendum and the dangers to a future community that could result if it were adopted.

MR STEFANIAK (Minister for Education and Attorney-General) (4.42), in reply: I will be closing the debate. I must agree with Mr Berry in terms of the standard of the debate. It certainly has been an excellent debate. I do not remember any highlights from the previous times that citizen-initiated referenda was debated here. None spring to mind, so I think there is probably a lot of strength in what he says in terms of it having been an excellent debate and a lot of views having been put forward.

I must disagree with some of the views. I think the Chief Minister summed up why we need citizen-initiated referenda, mentioned some of the potential problems if we do not, and gave a very good recitation on the history of democracy. Basically, that is what this bill really is about.

I think history is important. Mr Berry talked about the United States. Might I make the point to start with that Australians are somewhat dissimilar from Americans. Whilst both of our countries are democracies, and we are both very good democracies, we are different democracies. We have different perspectives, different points of view, and different systems and thought patterns.

Mr Berry picked two examples. He was quite right. I recall that one involving the Reagan governorship of California when people voted not to raise taxes. I was not aware of the one in Portland, Oregon, or whatever it was he was talking about, the other one on euthanasia. He indicated that he did not like the one about taxes but he liked the one about euthanasia. It's like anything else. It's like matters that come before this place. Not

all of us like every bill that passes here or every motion that passes here. The same thing with the citizen-initiated referenda. In terms of referendums in Australia, I am sure members would have different views on some of the questions asked. I will come back to the questions in referendums in Australia.

We talk about history. I think Mr Humphries made a very valid point about looking several hundred years into the future of democracy, when people would think, "Why on earth did they have that debate then? What on earth's wrong with citizen-initiated referendum?" Such referenda may well be commonplace then. Our democracy is, of course, an ever evolving institution. The constitution enacted in 1901 had provision for the constitution to change, not by simple amendments or acts of parliament but by referendum; not exactly citizen-initiated referendum, but referendum nevertheless. So we have had a history in this country of referendums dating back over 100 years.

I think people who worry about citizen-initiated referenda really have a lack of faith in the Australian people. Perhaps they do not trust the good sense of the people of the ACT, and impliedly, of course, the people of Australia. I think one only needs to look at the federal referendums to see vindication of their commonsense and the detailed thought that would go into a yes or no answer in a referendum by the people of Australia, including, of course, the people of the ACT.

I can go back to a number of issues. Mrs Burke mentioned some. I refer to the conscription issue of 1916-1917 and Billy Hughes campaigning for conscription. One thinks of the patriotism of those times. Australians went off to fight a war for a number of reasons, but primarily because they were part of the British Empire and felt part of the British Empire, even though we were an independent dominion. He thought they would support a call for conscription. They didn't. That was tried at two referendums. The soldiers at the front line did not support conscription, and I think that might have played very heavily on the population back home. Australia maintained a very strong volunteer army in World War I, unlike the other participants in that conflict. You would think surely, in time of war, in a life-threatening struggle, that people would back the government that wanted conscription, but no; so people obviously thought about that a lot.

There was the referendum in 1951 when Robert Menzies tried to outlaw communism. The Iron Curtain had descended over Europe. We had many people who had emigrated, fleeing from communism in Europe, my father being one of them. North Korea had invaded South Korea, backed up by China and supported by the Soviet Union. We were engaged in the Korean War. We had a very active Communist Party in Australia, which was probably somewhat subversive. It supported one of the worst totalitarian regimes in world history, that being the Soviet Union of Joseph Stalin. The Prime Minister of the time, whilst his country was engaged in a war against communism, in Korea, wanted to ban the Communist Party. He lost.

I can remember talking to my mother about that. I do not think my father was a naturalised citizen at that time, but he probably would have voted yes. Even though I think he voted Labor most of the time, I think he would have voted yes to outlaw communism. My mother was a vehement anti-communist and a long-time Country Party or Liberal Party voter. She was a great supporter of Menzies. I think she worked with Sir Earle Page as the press secretary's secretary at about that time. When I asked her,

"Did you vote to ban communism?", I thought she would say yes. But she said, "No, we are a democratic country. That's something they do in the Soviet Union."

There have been other constitutional issues where the good sense of the Australian people has shown through. There was the referendum in 1967 to give Aborigines the vote and to have them included in the census. That was passed by about 95 per cent. Back in 1998 the ACT was the only state, I think, to vote for four-year terms for federal parliament. It voted no on the other issues, along with every other state and territory. There were four questions then. Again, that was a case of people actually thinking.

The ACT people are no different. They do not think of politics every day of their lives. If you go out there today and ask, "When is the next ACT election?", maybe one person out of 10 might tell you, "Some time in October." The rest would instantly say, "I wouldn't have a clue." If you re-ask them the question a few times they might get close to it. It is not concerning them. They are not thinking about it. There are many people out there who think that people in this parliament have pension schemes like the federal parliament. In fact, most people probably do. I am forever correcting people on that one issue. That does not mean that they are not capable or are not interested in politics. When it comes to a crunch, when they have to put their minds towards a political issue, they will use their innate commonsense, their innate decency, the innate qualities that they have gained from being part of this great democracy which has evolved over many years here in Australia.

I think people are saying that CIRs are populist; that you are appealing to people's base instincts; that any minority group can hijack it if they can get the not inconsiderable number of signatures required. Those people are very wrong. They do a disservice to the ability of citizens in this territory and throughout Australia to think carefully about major issues and vote accordingly, an ability which I think has been shown time and time again. All those questions in previous referendums have been yes or no questions. They can't be any other way. I think that little historical recitation I gave is good evidence to show that people are more than capable of thinking very carefully about those types of questions, including the people of the ACT. I, for one, have no fear that the people of the ACT would not make sensible decisions in terms of any citizen-initiated referenda questions that came up.

As other speakers in favour of this bill have indicated, it takes a hell of a lot of people, over 10,000 voters, to get a question to a stage where you could give it a run, and getting that number is very hard. That in itself is a check to any ratbag suggestion getting a run. There are other checks, of course, in the system.

Kerrie Tucker from the Greens talks about the Greens believing in participative democracy. Well, what on earth do you think this is if it is not participative democracy? I think by not voting for this we are disempowering people. I think Mr Humphries and a few others are quite right to talk about new parties like One Nation arising because people do feel disempowered. They feel frustrated. They feel disenfranchised to an extent. This is one way of engaging people in our democracy, of giving the ordinary citizen another way of having a say rather than just electing members to an Assembly every three years.

I think there is some strength in the argument that there are a lot of vocal minority groups. They get the support of the media. They perhaps have an influence on elected members far greater than the number of people they really represent. Whilst they have their place in a democratic system, why shouldn't we have other mechanisms for the population as a whole to participate?

Yes, LAPACs are one way, but, again, you do not get a huge number of people going to LAPACs. You do not get a huge number of people going to a lot of meetings on political issues unless they are about something that seizes the local population.

There are issues that crop up from time to time which have a direct bearing on a large number of people and they will go to a meeting, but how often does that happen? Even when that occurs, after they have a greater knowledge of what is being proposed, or whatever, the meetings tend to have less and less people attending.

A topical issue at present is the prison. I heard Don Allan on radio indicating that there were hundreds of people at one meeting, and then it got down to very few after a while because people were more informed and perhaps felt more comfortable or whatever.

This method, CIR, I think is an excellent way of including more people in our democratic process. It is not going to happen very often. I would suspect it would happen very rarely, but it does give citizens of the ACT another avenue to have their democratic say. I think it is somewhat arrogant of members who are opposing this not to give them that opportunity. I don't think it is something that can be abused or misused. I don't think we see any great evidence of that occurring in other places.

In the United States, albeit meaning them no disrespect, people possibly take more extreme views on certain things than is generally the case in Australia. I don't think we have seen too much evidence, even on what has been said today, of that being the case with their citizen-initiated referenda. I don't think there is much evidence to indicate that there have been absolute injustices perpetrated in other places which have citizen-initiated referendum as a result of it.

Mr Temporary Deputy Speaker, in closing, I urge members to support this legislation. I hardly think anything I have said has influenced anyone to change their vote. As Mr Humphries has indicated, I think the numbers are probably once again against us. It may well be a case of fifth time lucky next time around if we bring it back as a party. I think this is an important issue, and I think members are really missing out on giving our citizens a proper additional right of say in our system by not voting for this.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes, 6 Noes, 9

Mrs Burke	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Corbell	Ms Tucker
Mr Hird	Mr Hargreaves	Mr Wood
Mr Humphries	Mr Moore	
Mr Kaine	Mr Osborne	
Mr Stefaniak	Mr Rugendyke	

Question so resolved in the negative.

Stock Amendment Bill 2001

Debate resumed from 9 August 2001, on motion by **Mr Smyth**:

That this bill be agreed to in principle.

MR CORBELL (4.58): Mr Speaker, the Labor Party will be supporting this bill today. This bill basically makes provision for the banning of certain feed products sourced from mammalians and poultry and fish to prevent the possible spread of mad cow disease or BSC and its human variant, Creutzfeldt-Jakob disease. These are sensible amendments to the act to prevent, as much as possible, the possible spread of this disease and to ensure continued absence of this disease in Canberra. We will be supporting the bill.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (4.59): Mr Speaker, I thank the Labor Party for its support for this important bill. Mad cow disease is what this is all about.

Ms Tucker: Be very careful. Be very, very careful.

MR HUMPHRIES: It's all about mad cow disease, Mr Speaker. I am very pleased that the Assembly has given this bill its support.

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.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage

Bill agreed to.

Adjournment

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

That the Assembly do now adjourn.

Jewish National Fund
Jewish centre and synagogue

MR STANHOPE (Leader of the Opposition) (5.01): Mr Speaker, I want to take this opportunity to comment on two issues that are of particular importance to members of the Jewish community in Canberra and Australia. The first is that there was a major celebration at Parliament House last night of the centenary of the Jewish National Fund, which I attended in company with my colleague the Attorney-General. This was a significant celebration, attended by the Prime Minister and the Leader of the Opposition, the Israeli Ambassador, a number of parliamentarians from Israel, members of the executive of the Jewish National Fund, and a large number of other special guests and representatives of the Jewish people of Canberra and Australia.

The Jewish National Fund is the organisation which, through its land development activities and its devotion to ecologically sustainable planning and development, has very much to do with the changing of the physical face of Israel over the last century, Mr Speaker. It is a very significant organisation. One of its major achievements is the fact that since the Second World War it has planted over 250 million trees in Israel. I would like to extend my congratulations to the Jewish National Fund on their centenary.

The second matter on which I wanted to comment today is the attack last Saturday night on the Canberra synagogue and Jewish centre. Mr Speaker, there have been a number of periods of Jewish migration to Australia—after the first white settlement of Australia, during the convict era, during the gold rushes after 1850, after the major Russian pogroms of the 1880s, following the ascension of Adolf Hitler to power in Germany in 1933 and again after the Second World War.

It is notable that many of the Jewish people living in Australia today are either the survivors of persecution or the Holocaust, or the children or relatives of survivors. I do not propose today, Mr Speaker, to talk in detail about the Holocaust. Each of us is aware that there is no parallel, in the history of the world, to the horror of the Holocaust—an attempt by a totalitarian state to use the machinery of the state to exterminate an entire people for no reason other than that they were Jews. One cannot image the extent or nature of the trauma and the psychological adjustment which Jewish people, not just those who were survivors or those directly affected by the Holocaust but all Jews, must have had to deal with as a consequence of the Holocaust and are required to continue to grapple with.

It is in this context that I think we must frame our response to the recent attack on the Jewish centre and synagogue. The Jewish community in Canberra and Australia has made an extraordinary contribution to our community. While we have a responsibility to treat all our citizens equally and to ensure each of them the greatest degree of physical security that it is within our capacity to provide, the history of the persecution of Jews

demands that we treat this latest attack with the greatest sense of alarm, and to do all in our power to identify and prosecute the perpetrators.

I also think that, as a community, we must send a message, loudly and clearly, that this community will not tolerate or countenance in any way terrorism or the targeting of any group within our community. Community leaders must stand up and the community must stand together and say loudly and clearly that the singling out of any person or of any group for persecution, for vilification or attack will not be tolerated by us, and will never be tolerated by us.

It behoves us, on this latest outrageous and cowardly attack on the Jewish synagogue, and as a result of that on the Jewish community of Canberra, to declare it as simply intolerable. We in this place must send the message that as a community we stand to defend every individual, and every group of individuals. Attacks of this sort should not go without a declaration of our determination that this sort of behaviour will never be tolerated or excused.

Jewish National Fund

MR STEFANIAK (Minister for Education and Attorney-General) (5.05): I did have the pleasure of going to the 100th anniversary of the National Jewish Fund with Jon Stanhope last night. It was an excellent evening. I was highly impressed with all speakers, who included Clyde Cameron, Kim Beazley and the Prime Minister.

I join with Mr Stanhope in congratulating the National Jewish Fund on 100 years of excellent work. As he indicated, they have planted some 250 million trees in Israel since their foundation in 1901. That is one of the few countries in the world, I think, where the tree population has grown considerably over the last 100 years. It is much greater now than it was 100 years ago. That is very different from other countries in the world. I recently read a rather sad article about the deforestation of China.

The fund also has been instrumental in assisting modern Israel develop. I was very happy to see last night the messages of peace and goodwill that went out, the desire for a real and lasting peace in that troubled area of the world, and the commitment of support from both sides of the Australian federal parliament to enable Israel to live, hopefully, in peace and freedom behind secure, defensible national boundaries. The bipartisanship was very apparent last night, as indeed was the impressive work of the fund over 100 years.

Whilst I was not aware of the attack on the synagogue, I join Jon Stanhope in terms of what he has said in relation to that. I heartily endorse everything he said. Anti-semitism has been a scourge throughout history. It is quite disturbing to see that it is still there, and perhaps even in our community. I think that is a great shame because it is a scourge. No greater crime against humanity has been committed in recent times than the Holocaust, when the systematic extermination of the Jewish race was attempted by the Nazis.

Anti-semitism simply cannot be tolerated in a civilised society. I have no problems whatsoever in joining with Jon Stanhope in condemning that and condemning the senseless attack on the synagogue.

Public service

MR BERRY (5.07): Mr Speaker, two or three times in the last few weeks—I think once in here—I have been accused of attacking the public service in the ACT in relation to matters which I have raised in this place and outside of this place. The other day I went to what was described as "The new era—the ACT public service moves forward", which was launched by Mr Humphries. Nobody in principle would have any difficulty with improving the services that are provided by public servants to the people of the ACT. What troubled me about it was that it seemed to me that the message that was being sent was that many of the problems in the ACT have been because of our public servants. I regard that as an attack on them, and many public servants would do so as well.

I will not go through Mr Humphries' press release in relation to this matter, I will just read one paragraph. It says:

However, there is a clear need to move forward to build on those strengths and acknowledge and rectify weaknesses. Reviews such as the Bruce Stadium audit and the hospital implosion inquiry have revealed specific areas of weakness in management and governance.

The suggestion is that our public service is in some way responsible for the hospital implosion. That is the subliminal suggestion. Overwhelmingly, there were very few public servants close to the issue. These were government issues, and I just want to stand in this place and defend those public servants who give good and loyal service to the people of the ACT and behave as public servants should to work for the government of the day.

I absolutely refuse to accept that the public service can be connected in general to the Bruce Stadium and the hospital implosion. It was not the public service which decided that we would have a Bruce Stadium for $12.8 million; that was a government decision. It was not the public servants who decided to blow up the Canberra Hospital; that was a decision of government.

I make that statement in defence of our public servants who, by and large, give the most sterling and loyal service to people in the territory.

Public service

MR MOORE (Minister for Health, Housing and Community Services) (5.10), in reply: Mr Speaker, once again Mr Berry puts his bias on these issues. There is no doubt that the decision to use implosion as a methodology was not a decision of government as such. A decision was not taken in cabinet to implode the hospital. That came out very clearly, Mr Speaker. Some public servants were responsible to ensure the safety of the process, and that is a matter that has now been investigated by the coroner. Of course, Mr Berry would love to make that simply the responsibility of the Chief Minister at the time. Not so.

Secondly, Mr Berry refers to the $12.8 million decision. There was indeed a government decision to try to get the excellent stadium that we now have for that kind of money. Probably that was an impossible task at the time. The issue, of course, actually never

came to a vote. The issue in this particular case was whether Mrs Carnell broke the law or did not break the law. That is what she was accused of by those opposite, again and again and again. In fact, the issuing of a set of administrative arrangements was neither an act of omission or commission on her part.

Mr Berry likes to keep rewriting history. That is fine. But he must also understand that other people in this Assembly understand what went on and would like to make sure that the other perspective is put as well, and that is what I am doing now.

Question resolved in the affirmative.

Assembly adjourned at 5.12 pm until Tuesday, 28 August 2001, at 10.30 am

Schedules of amendments

Schedule 1

Guardianship and Management of Property Amendment Bill 2001

Amendments circulated by Ms Tucker

1
Clause 4
Proposed new section 5
Page 3, line 30—

At the end of the section, add the following subsections:

(3) In working out the protected person's wishes and interests, the decision-maker should consult with the primary carer of the protected person.

(4) Subsection (3) does not limit the consultation that the decision-maker may carry out.

2
Schedule 1
Amendment 1.29, proposed new dictionary
Proposed new definition of *primary carer*
Page 17, line 4—

Insert the following definition:

primary carer includes a family member or friend who is primarily responsible for providing support or care to a person other than completely or substantially on a commercial basis.

Schedule 2

Guardianship and Management of Property Amendment Bill 2001

Revised amendments circulated by Ms Tucker

1
Clause 4
Proposed new section 5
Page 3, line 30—

At the end of the section, add the following subsections:

(3) Before making a decision, the decision-maker must consult with the primary carer of the protected person, unless doing so would, in the decision-maker's opinion, adversely affect the protected person's interests.

(4) Subsection (3) does not limit the consultation that the decision-maker may carry out.

2
Schedule 1
Amendment 1.29, proposed new dictionary
Proposed new definition of *primary carer*
Page 17, line 4—

Insert the following definition:

primary carer includes a family member or friend who is primarily responsible for providing support or care to a person other than completely or substantially on a commercial basis.

Schedule 3

Fair Trading Legislation Amendment Bill 2001

Amendments circulated by Leader of the Opposition

1
Clause 4
Page 3, line 6—

[Oppose the clause.]

2
Clause 5
Page 3, line 14—

[Oppose the clause.]

3
Clause 19
Proposed new subsections 12B (4) and (5)
Page 10, line 23—

Omit the subsections, substitute the following subsection:

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against the fair trading legislation; and

(b) the thing or activity is at or happening at the premises, or may be at or happening at the premises within the next 14 days.

4
Clause 19
Proposed new paragraphs 12B (6) (b) and (c)
Page 11, line 7—

Omit the paragraphs, substitute the following paragraphs:

(b) the offence for which the warrant is issued; and

(c) the things that may be seized under the warrant; and

5
Clause 19
Proposed new subsection 12C (5)
Page 11, line 24—

Omit the subsection.

6
Clause 19
Proposed new subsection 12C (6)
Page 12, line 6—

Omit ", or the warrant form properly completed by the investigator,".

7
Clause 19
Proposed new subsections 12C (7) and (8)
Page 12, line 9—

Omit the subsections, substitute the following subsections:

(7) The investigator must, at the first reasonable opportunity, send to the magistrate the sworn application.

(8) On receiving the sworn application, the magistrate must attach it to the warrant.

8
Clause 19
Proposed new subsection 12E (1)
Page 13, line 16—

Omit "evidence (if any)", substitute "things".

Answers to questions

Tree protection scheme
(Question No 396)

Ms Tucker asked the Minister for Urban Services, upon notice:

In relation to the implementation of the Tree Protection (Interim Scheme) Act 2001:

1. How many tree removal applications have been approved to date
2. How many of these tree removal applications have been approved
3. In relation to the approvals:
   (a) What were the species of the trees approved for removal; and
   (b) How many approvals were given against each of the criteria determined by the Minister for approving a tree removal activity

Mr Smyth: The answer to the member's question is as follows:

1. The number of applications received is 726.
2. The number of applications approved is 446 representing 655 trees.

3(a) The number of species approved for removal is: 115. The complete list of species with numbers approved is at Attachment A.

3(b) The number of approvals given against each of the criteria determined by the Minister for approving a tree damaging activity are as follows.

Criteria determined by the Minister for approving a tree damaging activity	**No Trees**
The tree is diseased or termite infested and/or its life expectancy is short; (Note Dead trees are exempt and no application is required)	130
The tree represents an unacceptable risk to public or private safety;	127
The tree is shown to be causing or threatening to cause substantial damage to a substantial building, structure or service;	218
The tree is an inappropriate species in potential size or growth habit for its location or proximity to buildings (excluding remnant eucalypts);	61
The tree represents a serious plant disease threat;	0
The tree is blocking solar access to a living area of a dwelling during winter between the hours of 9am to 3pm and pruning is not sufficient to remedy this;	26
The tree is causing an allergic reaction to an occupant of the block and the claim can be supported by certification from a medical specialist;	1
Where the tree is part of a close planting of a number of trees, the removal of the tree will allow the other trees to develop fully;	6
It has been demonstrated that all reasonable alternative development options and design solutions have been considered to avoid the necessity for tree removal.	86
Total	**655**

Attachment A

Description of Tree	Total
Acacia dealbata	6
Acacia decurrens	9
Acacia elata	2
Acacia meansii	1
Acer buergerianum	1
Acer negundo	11
Acer saccharum	1
Acer sp.	1
Abies nordamanniana	1
Banksia integrifiolia	1
Betula pendula	4
Casuarina cunninghamiana	7
Catalpa bignonioides	1
Cedrus atlantica	1
Chamaecyparis funebrus	1
Chamaecyparis lawsoniana	2
Cupressus arizonica	10
Cupressus glabra	6
Cupressus lusitanica	2
Cupressus macrocarpa	17
Cupressus macrocarpa ‘Horizontalis Aurea’	17
Cupressus sempervirens var ‘aurea’	1
Cupressus sempervirens ‘Stricta’	61
Cupressus sp.	5
Cupressus torulosa	7
Eucalyptus aggregata	1
Eucalyptus bicostata	52
Eucalyptus blakelyi	43
Eucalyptus bridgesiana	7
Eucalyptus cinerea	19
Eucalyptus crenulata	1
Eucalyptus dives	1
Eucalyptus elata	5
Eucalyptus leucoxylon	1
Eucalyptus macarthurii	3
Eucalyptus macrorhyncha	2
Eucalyptus maidenii	1
Eucalyptus mannifera	73
Eucalyptus melliodora	19
Eucalyptus nicholii	91
Eucalyptus pauciflora	2
Eucalyptus polyanthemos	8
Eucalyptus rossii	6
Eucalyptus saligna	2
Eucalyptus scoparia	2
Eucalyptus sideroxylon	12

Eucalyptus sp (hybrid cinerea)		1
Eucalyptus sp.	10	
Eucalyptus viminalis	25	
Fraxinus americana	1	
Fraxinus excelsior	3	
Fraxinus oxycarpa	2	
Fraxinus oxycarpa “Raywood”		8
Fraxinus sp.	1	
Grevillea robusta	2	
Liquidamber festerii	3	
Liquidamber sp.	1	
Liquidamber styraciflua		9
Liriodendron tulipifera		2
Malus sp	1	
Melaleuca sp.	2	
Melia azedarach	3	
Picea abies	1	
Pinus patula	2	
Pinus radiata	30	
Pinus sp.	1	
Platanus orientalis	9	
Platanus sp.	1	
Platanus x acerifolia	1	
Populus alba	1	
Populus deltoides	1	
Prunus cerasifera Nigra		1
Prunus serrulata	..1	
Prunus sp.	1	
Pyrus ussuriensis	1	
Quercus cerris	1	
Quercus lusitanica _	1	
Quercus palustris	5	
Quercus robur	3	
Quercus robur ‘Fastigiat’		1
Salix babylonica	2	
Salix matsudana ‘Tortuosa’		2
Salix sp.	1	
Sequoia sempervirens		1
Sophora japonica	3	
Sorbus domestica	1	
Ulmus americana	7	
Ulmus parvifolia	11	
Ulmus procera	1	
Various	11	
TOTAL	655	

Housing
(Question No 397)

Mr Wood asked the Minister for Health, Housing and Community Services, upon notice:

For each Canberra suburb:

(1) How many properties are owned by ACT Housing; and

(2) What percentage is this of the total number of properties.

Mr Moore: The answer to the member's question is provided in Attachment A and is current as at June 2000.

Attachment A

BREAKDOWN OF TOTAL PROPERTIES BY SUBURB IN THE ACT

Suburb	Total Dwellings ACTH	Total Dwellings ACT	%ACTH/Total
ACTON	0	52	0.00%
AINSLIE	515	2038	25.27%
AMAROO	22	1037	2.12%
ARANDA	28	915	3.06%
BANKS	44	1255	3.51%
BARTON/ PARKES	2	301	0.66%
BELCONNEN	334	1521	21.96%
BONYTHON	83	1222	6.79%
BRADDON	542	1656	32.73%
BRUCE	0	734	0.00%
CALWELL	24	2004	1.20%
CAMPBELL	28	1491	1.88%
CANB			
CENTRAL	8	325	2.46%
CHAPMAN	2	991	0.20%
CHARNWOOD	250	1195	20.92%
CHIFLEY	63	1039	6.06%
CHISHOLM	171	1878	9.11%
CONDER	59	1491	3.96%
COOK	81	1329	6.09%
CURTIN	91	2135	4.26%
DEAKIN	79	1105	7.15%
DICKSON	144	814	17.69%
DOWNER	157	1478	10.62%
DUFFY	108	1236	8.74%
DUNLOP	33	928	3.56%
EVATT	154	2007	7.67%
FADDEN	0	1081	0.00%
FARRER	49	1250	3.92%
FISHER	40	1229	3.25%
FLOREY	291	1919	15.16%
FLYNN	76	1278	5.95%
FORREST	12	653	1.84%
FRASER	29	726	3.99%
FYSHWICK	0	13	0.00%
GARRAN	67	1065	6.29%
GILMORE	123	942	13.06%
GIRALANG	80	1248	6.41%
GORDON	125	2456	5.09%
GOWRIE	80	1100	7.27%
GREENWAY	37	475	7.79%
GRIFFITH	320	2287	13.99%
HACKETT	96	1287	7.46%

HALL	10	104	9.62%
HAWKER	74	1212	6.11%
HIGGINS	110	1209	9.10%
HOLDER	43	1124	3.83%
HOLT	198	2051	9.65%
HUGHES	94	1201	7.83%
ISAACS	34	1038	3.28%
ISABELLA PLAINS	43	1579	2.72%
KALEEN	167	2706	6.17%
KAMBAH	638	5985	10.66%
KINGSTON	185	1386	13.35%
LATHAM	109	1418	7.69%
LYNEHAM	361	1786	20.21%
LYONS	429	1469	29.20%
MACARTHUR	3	503	0.60%
MACGREGOR	108	1264	8.54%
MACQUARIE	152	979	15.53%
MAWSON	114	1398	8.15%
MCKELLAR	104	914	11.38%
MELBA	109	1278	8.53%
MONASH	52	1923	2.70%
NARRA-BUNDAH	485	2474	19.60%
NGUNNAWAL	102	3828	2.66%
NICHOLLS	37	1898	1.95%
OAKS ESTATE/ SYMONSTON/ JERRA-BOMBERRA	78	287	27.18%
OCONNOR	304	2143	14.19%
O'MALLEY	0	368	0.00%
OXLEY	101	642	15.73%
PAGE	99	1099	9.01%
PALMERSTON	74	1963	3.77%
PEARCE	55	1102	4.99%
PHILLIP	88	1135	7.75%
PIALLIGO	0	37	0.00%
RED HILL	173	1292	13.39%
REID	362	933	38.80%
RICHARDSON	193	1134	17.02%
RIVETT	154	1300	11.85%
SCULLIN	155	1201	12.91%
SPENCE	127	964	13.17%
STIRLING	70	765	9.15%
THEODORE	92	1335	6.89%
TORRENS	68	889	7.65%
TURNER	265	1063	24.93%
WANNIASSA	359	2989	12.01%
WARAMANGA	166	1208	13.74%

WATSON	197	1710	11.52%
WEETANGERA	1	923	0.11%
WESTON	99	1339	7.39%
YARRALUMLA	149	1385	10.76%
Totals	**11637**	**121119**	**9.61%**

Cityscape
(Question No 398)

Mr Wood asked the Minister for Urban Services, upon notice:

In relation to the employment contracts and conditions of Cityscape.

(1) How many contracts with Cityscape are held by the firm Adecco.

(2) Is the Minister able to advise:
(a) . Under what award (s) are Adecco workers employed and where can employees access details of awards.
(b) Are Adecco and/or Cityscape workers employed only on short term contracts or are there opportunities now or in the future for long term secure employment.

(3) Does the ACT Government have a policy in respect of employment of contract workers.

(4) Does the Government understand the difficulties facing workers on short-term contracts on gaining credit, for example housing loans or car purchases.

(5) Is the Government aware that workers may be required to take a weeks leave once a year without pay and if so does the Government support this action.

(6) What procedures exist for workers to approach Adecco about wage and industrial issues without fear of retribution.

(7) What measure of control does the Government have over Adecco in respect of employment conditions and practices.

Mr Smyth: The answer to the member's questions is as follows:

(1) Cityscape has one contract with Adecco for the supply of contract labour. Forty (40) workers are currently supplied under this contract for specific periods of one to twelve months.

(2) (a) Adecco workers are employed under the AWU Miscellaneous Workers (ACT) Award 1998. Adecco workers can access details of this award from the Australian Workers Union, Adecco or the Internet at www.osiris.gov.au

(b) Contract labour is only used for seasonal work and short-term contracts. Permanent Cityscape employees are used for longer-term work.

(3) Because of the diverse nature of the ACT Government services it is appropriate to determine employment of contract workers on a case by case basis. In the CityScape Services context, contract workers are employed to efficiently manage workload peaks and troughs caused by seasonal factors.

(4) Yes, contract labour is used only where necessary for the viability of the business.

(5) Workers engaged directly on temporary contracts or through companies such as Adecco are no longer required to take a week's unpaid leave prior to commencing a new contract. In the CityScape Services context temporary employees have fixed term contracts for periods of 1 to 12 months.

(6) Adecco management advises that they value their employees and work closely with unions to ensure that employees are not intimidated.

(7) The contract for supply of labour with Adecco requires compliance with the provisions of any relevant statutes, Regulations, By-laws and the requirements of any Commonwealth, State, Territory or Local authority.

Civic Square—installation of water bubbler
(Question No 399)

Mr Wood asked the Minister for Urban Services, upon notice:

In relation to the installation of a bubbler in Civic Square:

1) What was the total cost of all work of all types, equipment hire, new grass and other costs of installing the bubbler in Civic Square and;
2) Which agency was charged with this cost.

Mr Smyth: The answer to the member's questions is as follows:

(1)

Supply	$1,727
Installation	$ 560
Reinstatement of grass bed	$ 680
Locate Services	$ 765
TOTAL	$3,732

(2) Canberra Urban Parks and Places were charged for the cost.

Migrants—skills recognition
(Question No 400)

Ms Tucker asked the Minister for Community Affairs, upon notice, on 23 August 2001:

(1) How will the new service differ from the National Office for Overseas Skills Recognition;

(2) How will the service charge migrants to assess their qualifications;

(3) Will there be any concessional rates;

(4) What assessment of need underlies the creation of the office;

(5) Will the office conduct an analysis of the impact of current practices on female migrants.

Mr Humphries: The answer to the member's question is as follows:

(1) The National Office for Overseas Skills Recognition (NOOSR) is the national expert and coordinating body on overseas skills assessments and recognition. The service that the ACT Government is now providing is based on national guidelines formulated by NOOSR. However, there is a major difference between the two services in that the ACT Government service comes free of charge, while the NOOSR service costs at least $150.

(2) There is no charge for this service. However, some complex cases may have to be forwarded to NOOSR or other appropriate organisations for further assessment, registration and licensing, or professional advice. In these cases, fees may be charged by the relevant organisation.

(3) Not applicable.

(4) Advice from NOOSR and NSW overseas qualifications assessment services indicated that approximately 100 ACT residents per year seek assessments of their overseas qualifications.

(5) Statistics are being gathered concerning the assessment services requested. These statistics include:
• gender of applicant;
• type of qualification;
• country of origin; and
• outcome of assessment.

Patient transport service
(Question No 401)

Mr Hargreaves asked the Minister for Urban Services, upon notice:

Question 1: What is the total number of (a) Priority 1 (b) Priority 2 and (c) Priority 3 cases responded to in (i) 1996 (ii) 2000.

Question 2. What was the percentage of total work this accounted for in each of these years.

Mr Smyth: The answer to the member's question is as follows:

Answer to Question 1 and 2:

The total number of cases by category and the percentages of total work for each of the years are as follows:

	1996		**2000**	
	No. of Case	**Percentage**	**No. of Case**	**Percentage**
Priority 1	7,479	49.46	9,537	46.20
Priority 2	4,324	28.59	6,645	32.19
Priority 3	2,614	17.29	2,674	12.95
*CT/PTS	705	4.66	1,787	8.66
Totals	**15,122**	**100**	**20,643**	**100**

*** Note: Clinic Transport Service (CT) was a predecessor to the current Patient Transport Service which provides a broader range of patient transport options.**

Question 3: What is the breakdown of these cases in suburbs, by (i) number and (ii) percentage, presented in tabular and graph form.

Answer: Data to answer this question is not available in the time frame requested.

Question 4: What was the breakdown of suburb of response times by (a) mean and (b) median for (i) P1, (ii) P2, (iii) P3 cases in (1) 1996 and (2) 2000.

Answer: Data to answer this question is not available in the time frame requested.

Question 5: What was the breakdown by suburb of the nature of the job (ie. cardiac, trauma, overdose, stroke etc) in (a) 1996 and (b) 2000.

Answer: Due to the unsophisticated nature of our data base (prior to full implementation of Computer Aided Despatch and related Information Management System) this information is not available.

Garema Place—outdoor screen
(Question No 402)

Mr Corbell asked the Minister for Urban Services, upon notice:

In relation to the outdoor screen in Garema Place.

(a) What was the total capital cost of the giant screen?
(b) What is the recurrent cost per year to maintain the screen?
(c) What was the cost to repair the screen after its failure on 24 September 2000?
(d? How many times has-the screen been used as a film screen since its construction?
(e) On what `specific dates has the screen been used to show specific events?

Mr Smyth: The answers to the member's questions are as follows:

(a) The total cost to design and construct the outdoor screen was $322,900 The cost of the projector equipment and trailer was $ 84,750

(b) The cost per year to maintain and store the projector and trailer is $5,780
The screen has not yet been accepted from the contractor and no maintenance costs are being incurred.

(c) The screen has not yet been permanently repaired. The structure was made safe on an interim basis while the cause of and solution to the failure were determined. This permitted usage over the 2000/2001 summer period. An expert investigation of the failure was completed in June 2001, a design for remedial works is currently in progress, and permanent repairs will be undertaken when the proposed arrangements are approved by Workcover.

(d) The answer to this question is incorporated in answer (e).

(e) During 2000-2001 the following screenings have taken place:

Year 2000
Brumbies highlights 26/5/00
Brumbies grand Final 27/5/00
V8 super cars promo 2/6/00
Olympic games projection 1/9/00
Olympic football 6/9 - 29/9/00
Video screenings 20/10/00
Video screenings 27/10/00
Video screenings 3/11/00
Green screen 24/11/00
Music videos 22/12/00
New Year celebrations 31/12/00

22 August 2001

Year 2001
Green screen 23/2/01
Brumbies match 19/5/01
Brumbies match 26/5/01

Subject to repairs being completed, arrangements are in place for regular Friday and Saturday night screenings to take place from the end of October through the warmer months.