DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

29 August 2001

Wednesday, 29 August 2001

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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.

Territory Owned Corporations Amendment Bill 2001

Mr Berry, pursuant to notice, presented the bill.

Title read by Clerk.

MR BERRY (10.33): I move:

> That this bill be agreed to in principle.

Members will be aware of my abiding interest in all matters relating to jobs and industrial relations. Part of that interest is my commitment to a strong and viable public sector. Over the last 6½ years I have scrutinised and challenged the Liberals' moves—the contracting out and the stripping of the public sector work force. That commitment has led to my closely examining all things related to Totalcare. We have tried on a number of occasions in this Assembly to stop the government transferring workers to Totalcare in preparation for the contracting out of their jobs. After all, these are still loyal workers and many of them are still in Totalcare facing redundancy payouts because of this policy.

As part of my commitment, I supported the amendment of my colleague Simon Corbell to ensure that, under the Territory Owned Corporations Act 1990, the territory's assets cannot be sold off without the approval of the Assembly. You can imagine my surprise when, exploring the issue of Williamsdale quarry, I came up with a can of worms—evidence that this government was still unable to understand due process and the accountability required of government by the Assembly.

This government has learned nothing from the tragic hospital implosion, the Bruce Stadium fiasco or its attempt to sell off Actew. When I dared ask questions, all I got was a stream of abuse from this mean-spirited Chief Minister, who had been caught out. I never got the answers. As late as yesterday, the government was still avoiding answering my direct questions.

Mr Moore: You got the stream of abuse from a mean-spirited—

MR BERRY: You are associated with them, Mr Moore. You like them these days. You have crossed the great divide. You are one of them, mate—notwithstanding all of your pretence—the great, old, well-off, middle-class bloke who has joined the Liberals. And who is surprised? I mean the great left-of-centre advocate for the downtrodden, Michael Moore. What a joke. In up to his neck with the Liberals. Mr Speaker, I can do better with Michael Moore when he interjects than you can. Look, he has gone.

I have had this amendment drafted to ensure that the Assembly's amendment to the Territory Owned Corporations Act, passed in 1998, is tightened and adhered to by the government. The government claims its legal advice lets them off the hook when it comes to the Williamsdale quarry.

Mr Humphries: You are agreeing with that by moving this bill.

MR BERRY: Mr Humphries interjects, and I agree with him. I will come to that in a minute.

Of course the government claims that it is able to dispose of assets of the Williamsdale quarry. A close reading of their legal advice makes it clear that the issue has not been tested in the courts and that there is a great deal of ambiguity. My legal advice was unequivocal: it said that it was unlawful; the government broke the law. And we can remember the different legal opinions—on profit in relation to the possible illegality in relation to Bruce Stadium and the final advice and actions of the Auditor-General.

The first piece of legal advice that Mr Humphries relied upon was the legal advice from Mallesons. Mr Humphries issued a boastful press release "Williamsdale quarry: Berry proven wrong. Must apologise". The advise from Mallesons did not touch on section 16 of the act, which concerns the government's disposal of its assets at the Williamsdale quarry. The government at first said, "No, this is an acquisition. This is an interesting thing: we have acquired a joint venturer. We've given them half of something, we got $3.8 million back and we've acquired a joint venturer. We did not dispose of anything."

But half the rights and profits from the quarry, estimated to be $9 million or so over the first five years, were sold for $3.8 million. So they disposed of something. If something was missing out of my backyard and I had the money in my hand, I would reckon that I had disposed of something. It has been completely dissembling and disingenuous of the government to take the approach that it has to this matter.

Other legal advice they got was on whether this was a substantial asset or not. I can tell when something is substantial: it looks pretty big. If anybody has ever been out to the Williamsdale quarry, they will have seen that it is pretty substantial. There is millions of dollars worth of equipment out there, and the government have the right for 30 years to extract quarry material from the site and sell it. It is said to be worth over $50 million to the territory, and the government have sold half of the rights to that. The government laugh about it, but it is the same political party that lied to the electorate before the 1998 election. They said the sale of Actew was not on the agenda. What liars. Weeks later, they moved to sell it.

On the government's own legal advice, it would be able to sell what is left of Williamsdale quarry without reference to this place, notwithstanding what the Chief Minister has said here. This all started in September 1998, when Totalcare reached an agreement with the McDonald family to operate a quarry at Williamsdale. On 31 August 1999 there was an engineering business case for Williamsdale quarry. On 29 November there was a competitor analysis of the proposed Williamsdale quarry by Access Economics—none of which, by the way, has discovered any risk involved in this enterprise. On 24 January 2000, a Totalcare shareholder, Mr Humphries as Treasurer, the

Attorney-General and a former Chief Minister, consented to a joint venture, a quarry, on condition that it was with Mitchell Mini-Mix and, possibly, CSR Emoleum.

Mr Humphries continued yesterday with his dissembling answers in this place. When asked if that condition had been withdrawn, he said, "Yes, I think in July last year." But there was no correspondence that said to withdraw the condition. He explained to us that Totalcare had changed its mind but that no document had been issued by the shareholders to change that condition. It is probably true that there is a question of law at large in these matters as well.

One of the most important features of this deal was that the McDonald family were of an understanding—and it is in writing in their contract—that the government would not or could not enter into a joint venture without the approval of the McDonalds. Of course, the government entered into a joint venture without the approval of the McDonalds, so there is a question at large there, too. The government entered into a joint venture without the approval of the people who had the licence to operate.

This government has been dishonest with the McDonalds as well. It has also been very careful not to expose to scrutiny the deal it was doing with Pavement Salvage. By not bringing that to this place for public scrutiny, it has made itself even more open to the charge that it was being secretive.

It is interesting. This deal—the approval and the conditions for the joint venture—was being consummated at a time when the government was contemplating the sell-down of Actew. Mr Speaker, how do you think the community and this Assembly would have responded to the sell-down of Actew if the government had come in here with another proposal: to sell down half of its interest in the product and profits from the quarry at Williamsdale?

I reckon the government could have been open at that stage to the charge that there was a bit of a fire sale going on. I think that would have been a fair assumption. But this was kept very quiet because the government knew that the charge of a fire sale would stick. Nobody knew on 24 January 2000 that the government was doing the deal because it was just before the sell-down of Actew. It would have brought a lot unstuck, and that is why the government was very secretive about its approach to the matter.

I now come to some of the issues concerning the management of the place. The business plan for the Williamsdale quarry made it very clear that there were considerable business opportunities and millions of dollars available to the ACT economy if the quarry was properly managed. The money that would flow to the territory would flow by way of dividends, as a return from the profits, from the sale of aggregate and from the reduced costs of aggregate, road sealing and construction work.

If what had been predicted had come to pass, those benefits would be starting to flow now. But we know that there are some management problems at the quarry. A report—that I am not sure the minister will ever table, but I have asked him a question on it—has been conducted on a major machinery failure at the site. There has been some controversy, and I understand there is a wrongful dismissal matter on foot. Production at the quarry is way down. At the last report, one of the contractors at the quarry was going to lose a $600,000 piece of machinery because production was down due to bad

management. You have to ask how this is being managed—but that is another matter. These are issues that would have been canvassed had the matter come to this place for debate before approval being given.

The legislation that I have put forward defines the issues which the government has seized upon in its avoidance of scrutiny—as if we needed to define what "dispose of" meant. We know what it means except when we are trying to avoid the question. The legislation describes it thus:

> ***dispose***, of an asset of a Territory owned corporation, includes giving a person other than the corporation an interest in the asset or rights in relation to the asset.

That is pretty straightforward. That is a commonly understood meaning of "dispose", and it is one you would think the government would have thought about when it disposed of this asset secretly. Other definitions in the legislation are:

> ***significant asset***, of a Territory owned corporation, includes an asset of the corporation, a part of an asset of the corporation, or an interest in an asset of the corporation, having a market value of at least $ 1 000 000.

and:

> ***subsidiary***, in relation to a Territory owned corporation, means a body corporate that under the Corporations Act is a subsidiary of the corporation.

It will now be clear that these provisions, if complied with, will require the government to come back to the Assembly to seek the approval of this place before the sale of assets. This is not something the government wants to do; it is not something the government has ever wanted to do.

This is a government that likes to sell public assets to bolster up its reserves; that is the aim of it. There was an attempt to sell the Health building in Moore Street, in the city, and there have been numerous attempts by this government to sell various assets around this city in the course of its term in office. Nobody will ever forget the claim by the then Chief Minister about Actew: "It's not on the agenda. Not on the agenda." You could have held your breath for the time that promise lasted. Then all of a sudden it was out in the open again. Here is another example of where the government thinks it is okay to unload public assets that have a potential to deliver for the party.

Mr Moore: If you were in government, you would be caught for misleading the house. You would lose your ministry.

MR BERRY: This government is selling an asset of the territory, Mr Moore. You can reconstruct your views of the world to suit whatever colour you want to be on a given day—pink, blue. Whatever colour you want to be, Mr Moore, you can reconstruct yourself to fit the mould. We have seen you do it so many times. We just saw you do it in relation to the parkway, for heaven's sake. Green yesterday, blue today, pinko tomorrow. What a joke you are. We will have less to laugh about when you are gone.

The facts of the matter are that this group of ministers is responsible for this philosophy. They are all rusted onto it, and they have demonstrated their commitment to secrecy in the past. There is a tawdry litany of secret attempts by this government to dispose of important public assets. It is also an example of its dishonesty towards people in the community. The government had an undertaking with the McDonald family in writing that it would not enter into a joint venture without getting their approval. It is in the contract.

Mr Humphries: Prove it.

MR BERRY: It is in the contract.

Mr Humphries: On a point of order, Mr Speaker: I ask Mr Berry to table the document he refers to. Table it, prove it, put the document where your mouth is. Show us you are not lying.

MR SPEAKER: There is no point of order.

Mr Moore: Wait until he is a minister. He will last about two minutes with this sort of stuff.

MR BERRY: In 20 minutes I would do more than you, Mr Moore, so let's face the facts. Mr Speaker, the fact of the matter is that this was a disposal. It was in the face of an agreement with the land-holders at the time, who are still mightily offended by the dishonesty of this government. They are straightforward people who expect straightforward deals. Most of the time they deal with people on the basis of a handshake, but they had a contract with this government in which it said that it would seek the approval of the McDonald family before a joint venture was entered into.

Of course, the government did not do that, so they have mightily offended the land-holders. They even blew up machinery on the site and peppered the landscape with pieces of broken machinery. It sounds a little bit like the hospital implosion—there is a bit of a pattern to their behaviour. An inquiry has been conducted, on my understanding of it, and a report has been prepared on this fairly calamitous equipment failure, which has slowed down production at the site. So there is an ongoing matter of the management of the quarry and how the quarry will produce the promised results for the territory. It is a matter of the competence of Totalcare.

This bill makes it clear where Labor stands in relation to the disposal of assets. I know there is much snickering amongst the Liberals about this issue because they think the disposal of assets is fine, but the rest of the community does not and I do not. They know that something is wrong out at the Totalcare quarry, that it has been mismanaged and that something has been disposed of without the approval of this Assembly. As the principle of the amendments which were passed by Mr Corbell demanded, this clarifies the issue for good. There will be no more back doors for this government. They have exploited the last of that.

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

Nurses staffing legislation and lobbyists registration legislation—exposure drafts
Papers and statement by member

MR OSBORNE (10.52): I seek leave to present two exposure draft bills.

Leave granted.

MR OSBORNE: I present the following papers:

> Nurses Staffing Bill 2001;
> Lobbyists Registration Bill 2001—
> Exposure drafts together with explanatory memoranda.

I ask for leave to make a statement.

Leave granted.

MR OSBORNE: I will speak to the Lobbyists Registration Bill first. I understand that Mr Moore wants to speak to the Nurses Staffing Bill.

If there is one thing I have learned in my two terms in this Assembly it is that there are great dangers in allowing a government, of any persuasion, to operate behind a veil of secrecy. It is the deal done behind the closed door, with the decision presented as a fait accompli, that ends up costing the taxpayers far more than the government pretends at the time.

In many cases, non-government members of this Assembly never become aware of the real inspiration for government decisions. The person behind that closed door—the person persuading the government, the lobbyist pulling the strings of government—remains a shadowy figure. If the people of Brindabella return me for a third term, I will be making the exposure of backroom dealings a key feature of my work in the Assembly—hence this exposure draft of a Lobbyists Registration Bill, a bill that, when passed, will shed some light on how decisions are made in this territory.

The Lobbyists Registration Bill, based on the Canadian Lobbyist Registration Act, acknowledges that free and open access to government is an important matter of public interest; that lobbying public office holders is a legitimate activity; that it is desirable that public office holders and the public are able to know who is attempting to influence government; and that a system for the registration of paid lobbyists should not impede free and open access to government. The bill has four main points aimed at achieving those purposes:

- the registration of lobbyists;
- the powers of the registrar;
- offences under the act; and
- establishing a lobbyist's code of conduct.

The bill recognises three types of lobbyists as they interact with public office holders, interest groups, professional associations or government agencies. These are consultant lobbyists, corporate in-house lobbyists and in-house lobbyists employed by an organisation.

Lobbyists recognised under the act will be required to do a number of things, which include adhering to a code of conduct developed by an ethics commissioner and reporting certain activities to a registrar. Those activities would then go onto an open public record. In addition, the registrar would provide an annual report to the Assembly. I will let members consider this exposure bill at their leisure.

The second exposure draft that I have presented is the Nurses Staffing Bill 2001. I would like to read to you a few of the newspaper headlines from over the last couple of years in relation to nurses staffing. "Hospital chaos; nurses off sick", "Morale in hospital at all-time low", "Nurses want more staff", "ACT nurses threaten to bring hospital to 'a grinding halt'", "Hospital defiant; nurses to walk out", "Minister admits morale problem at hospital", "Hospital chaos today as nurses' row worsens", "Patients waiting 24 hours for treatment" and "Nurse numbers drop as loads take toll".

These are but a few of the newspaper headlines that have been around for the last couple of years. No matter which party has been in power since self-government, our public hospital system has been under pressure. These headlines, spanning the past 12 years, are a sign that something is clearly wrong. As each government of the territory has desperately sought to bring its burgeoning health budget under control, our hospitals have ridden a roller-coaster of attempted reforms.

There are only so many ways to cut costs at a hospital before you start cutting back on staff. At any hospital a large proportion of the staff are nurses and, whenever numbers are cut back, having fewer nurses means more work for the ones that remain. There is a point at which the need for efficiency and cost savings, the interests of workers and the health care needs of patients collide, with negative impacts on all sides. For much of the past decade we seem to have been within a hair's breadth of such a collision.

It has been clear for some time that the number of working nurses across the country has been steadily declining. According to a 1998 Australian Institute of Health and Welfare report, during a six-year period in the 1990s the number of nurses fell nationally by about 10 per cent. During the same period the number of students starting basic nursing training dropped by about 20 per cent. Why is that? Obviously, for varying reasons, nursing has gradually become an unattractive profession.

The same report noted a very important point: the average number of patients per full-time nurse in public hospitals has leapt by almost 50 per cent. If that were not enough, staffing per available bed barely changed. In other words, during that six-year period, nurses were required to double their workload. We continually hear reports of nurses being required to work amounts of unpaid overtime and being asked to work double shifts at short notice.

A report on one recent national study revealed that the vast majority of nurses, 87 per cent, experienced work-related stress and singled out increasing workloads caused by understaffing as a key problem area. Another recent study found that over 50 per cent of

nurses felt that inadequate nurse-to-patient ratios caused by staff shortages and an inappropriate skill mix were responsible for clinical workload problems and were their greatest source of stress. Inevitably, as pressure increases to create efficiencies within hospitals, there will be times when inadequate staffing levels place patients at risk. I trust I am not alone when I say it is an unacceptable position for everyone—the nurses, the patients, the community—and it should be for us, as well.

This exposure bill provides a solution. I accept that it is not a pretty solution, but it provides for increased patient safety while protecting the working conditions of nurses and improving their career structure. Opponents of legislated nurse-to-patient ratio usually call this approach simplistic; however, I am encouraged if that is their best shot in the locker. Some may prefer a much more complicated solution or even no solution, but I believe that, after 12 years of ongoing disputes, the time has come to consider a way of breaking the deadlock over some aspects of this issue. I accept that our health system and public hospitals need to operate as efficiently as is practical. However, I despair when I see their management act as though they were a business.

I have said this before, and I repeat the message today: government is not a business; it is about providing services. Some of those services, such as hospitals, are essential and naturally require amounts of public money to ensure the provision of good health care. I consider that the measures in this bill achieve a number of goals. One unexpected achievement, based on experience in California, would be long-term cost savings due to better patient outcomes. As people receive better health care from appropriately trained staff, they will ultimately cost less to heal.

On a final note, the last thing either nurses, hospital management or the community wants is a continual public brawl over hospital staffing. This exposure bill addresses that issue and provides a solution for both sides. The solution is set within a framework that is flexible, achievable, workable and non-confrontational. Provisions in the bill also address the issue of double shifts and overwork, which add to the impression that nursing is an unattractive profession.

If re-elected and, depending on the outcome of the nurses' EBA negotiations over the next few months, I may yet table a formal bill for Assembly consideration. Mr Speaker, I hope that day will not come.

I seek leave to move a motion.

Leave granted.

MR OSBORNE: I move

> That the Assembly takes note of the papers.

MR MOORE (Minister for Health, Housing and Community Services) (11.02): Mr Osborne suggested that the best shot people have is to say that this is simplistic. If that is all we are saying, he is quite right in dismissing it. Part of what he seeks to do in his exposure draft is ensure the adequate protection of patients in acute care settings, and that needs to be respected. But what he does not do is recognise that this will create many more problems for patient care than it solves, and I will explain why.

With a shortage of nurses across Australia—across the world—patient waiting times will blow out at a very rapid rate because, if one is held to a set of parameters like this, there will be no choice but to put off operations. So, while people getting into acute care will be able to be looked after better, in a simplistic system like this there will simply be fewer patients that we are able to deal with.

If there was an adequate supply of nurses, you would say that this was a semi-sensible way to do it. Even if you want to talk about nurse/patient ratios, let's get an effective option to address that. Rather than use a blunt instrument like this, we ought to be looking at patient/nurse dependency systems. It is not just me saying that. The nurses federation themselves are constantly saying—you will have heard it on the radio—that acuity is not being recognised as part of the job. Well, it is being recognised—we do have our hands tied to this extent—that there are simply not enough registered nurses to allow us to expand the work and do the job. The pressure on our hospitals, as on every hospital in Australia, brings about these stresses, particularly in winter. But the solution Mr Osborne comes up with is inadequate. It is an attempt to provide a solution, but it does not recognise the parameters in which we are working.

A similar solution was found and ruled by the Industrial Relations Commission in Victoria. The Victorian Labor government has called very stridently for that to be overturned. It was only last week—it might even have been earlier this week—that it failed in that attempt. The reason the Labor government in Victoria—and it can hardly be seen as a right-wing Labor government akin to the one in New South Wales—and its health minister were working to overturn it is that the system itself oversimplifies and creates more problems than it solves. That is the problem with this sort of legislative solution to an administrative issue.

There is a challenge for whoever the next ACT health minister is and for every health minister in Australia to deal with this issue. Health ministers sat down, first in a private meeting and later in a broader meeting in Adelaide, and spent at least 2½ hours on this issue alone. We are extraordinarily concerned about it.

Yesterday I had the privilege of having lunch at the British High Commission with the shadow health minister from the United Kingdom, who was talking about problems in the United Kingdom under a Labor government that are almost identical to the problems here. It was not a matter of politics. It was just the same as when the Liberal minister in South Australia was discussing it with Labor health ministers from New South Wales, Western Australia, Victoria and Tasmania. We were interested in solving the problem. It is not a political issue. Whoever is sitting in this seat next year, whether it is a Labor or Liberal minister, will have to deal with this problem. No doubt, every member of the Assembly will demonstrate their concern.

If we are to maintain a high-quality health system in the ACT, we will have to find innovative ways to resolve problems like this. That is why the government did something extraordinary in seeking to intervene in the enterprise bargaining agreement. We got agreement from Calvary Hospital, who now have an adequate number of nurses; we did not get agreement from the Canberra Hospital, who are having difficulty in employing nurses. It is not hard to see why that is the case.

We sought to facilitate the enterprise bargaining agreement that is coming up by funding a 17.5 per cent pay rise for nurses right across the ACT to make sure they stay ahead in the salary competition across Australia. Why would we do that? For the same reason that we are advertising right across Australia, in Ireland, in New Zealand and across the world to try to get nurses. But at the same time as we are advertising there, those countries are advertising here to lure nurses out of Australia. Looking at the state of our dollar, if a nurse is to be paid in US dollars, Canadian dollars or UK pounds, they are going to be one heck of a lot better off. I am sure they do not miss that, and it makes it that much more difficult for us as well.

Nationally, our health system has to come up with better ways of training and bringing nurses back into the work force. We have made some attempt in the ACT, but you have to seek to solve these problems on a national basis. It is also time for us to consider different styles of work practice within the hospitals, where registered nurses with university degrees perhaps have more support from enrolled nurses—or from health care assistants, as are used in the United Kingdom, and in Western Australia. There we may be able to solve some of these problems. If we build into that a proper patient-nurse dependency system, which we can do with appropriate computer systems, we will have a reasonable chance of solving these issues.

Nursing clinicians, who understand what the acuity levels are and the particular needs of patients on a day-by-day, hour-by-hour basis, are the people who ought to be making these decisions. That is where our hospital management frameworks have moved; that is what we are seeking to do. It is the senior nurse on the ward who is saying, "No, we cannot take more patients." When that happens, we seek to move people from the Canberra Hospital—if that is where it has happened—to extra beds at the Calvary Hospital or the Queanbeyan Hospital, and there is a system for that to happen because it is the senior nurse on the ward who is making the decision about the level of acuity and what they can manage.

Recognising that there is a shortage of nurses, and, particularly through this winter period, many nurses have been prepared to take an extra bed, put in extra effort and work double shifts in order to make it work. They have put out more than we should expect from them. As an Assembly we ought express our gratitude for that, and as a community we ought to express our gratitude because these nurses have gone above and beyond what was reasonable to expect of them. Because of that we have maintained low waiting lists for people getting into hospital, not only for emergency but also for category 1. We have been able to reduce the waiting list for category 2 and category 3 because of the effort made by these people.

If this bill does come back onto the agenda at the next sitting, whoever is sitting here as health minister ought to reject it because, rather than doing what it seeks to do, it undermines the health of the community. It might help solve a problem of acuity in a particular hospital, but it would create many more problems than it solves. That is the trouble with simplistic solutions.

MR KAINE (11.11): I will be brief. I agree with some of what the minister said in connection with this exposure draft. I have to ask whether, if it were not for the fact that the day after tomorrow this Assembly is in recess leading up to an election, this exposure draft would be on the table at all. Mr Osborne has been notable for his absence when the

nurses have invited members of this place down to the hospital to have a look and see the conditions they are working in.

I have been down there twice in the last few months at their invitation. I know they have invited other members. Mr Osborne has been notable for his absence, and now suddenly he is concerned about the numbers of nurses in our hospitals. Like much documentation of this kind that is dropped on the table leading up to an election, it oversimplifies the issue, as described by the minister.

It is an absurdity to suggest that you can express the number of nurses required in a hospital—given the changes of situation that occur in hospitals in the course of one day—in a simple mathematical formula. It is an absurdity, and it demonstrates that Mr Osborne needs to get down to the hospital, as he has been invited to do, and find out how our nurses are operating on the ward floor in our hospitals. If he had done it even once, he would know that you cannot produce a mathematical formula to tell you how many nurses to have on the floor of the hospital. On the other hand, the minister's arguments were not very convincing. As always when there is some—

Ms Tucker: You are both wrong.

MR KAINE: You are both wrong, yes. That is the simple fact. As always, when a bit of publicity is given to a situation like this—nurses in our hospitals—we do a hell of a lot of talking. The minister does a hell of a lot of talking. He goes to ministerial council meetings, and they pass resolutions and push the job off to public service committees to go away and have another look at. And we hide behind the assertion that there is a worldwide shortage of nurses and we therefore cannot get any in the ACT.

Mr Moore said there are not enough registered nurses in the ACT to fill the vacancies. There are over 4,000 registered nurses in the ACT today, and only about 2,000 of them are in our hospital system. The reason that they are not in our hospital system is that they cannot cope with the working conditions. They have given it away. They have taken other employment because the working conditions they were confronted with daily in hospital are more than they could stand.

These conditions affect their family life, their social life and their health. Nurses are in a constant state of stress and are constantly being asked to work double shifts and more. When they want to be home with their kids and their families, they cannot be because they feel obligated to be down at the hospital working double shifts, 2½ shifts, triple shifts and odd shifts and to answer the telephone at any time of the night or day to go to the hospital to fill a vacancy when some other nurse has been unable to turn up.

Those are the things the minister should have been addressing in the time he has been the minister rather than hiding behind the false argument that there is a worldwide shortage of nurses. There might be, but there is no shortage of nurses in the ACT. His solution to what the nurses federation and the nurses themselves have been saying to him over many months, was, first of all, to withhold a pay rise and, secondly, quite recently, coincident with an election coming up, to give them the pay rise he should have given them a year ago. So, Mr Moore, the responsible minister, obfuscated the issue instead of dealing with it, and I held him accountable for that.

To come back to the exposure draft, my guess is that it has been tabled today and this is the last we will see of it. There is an election in a little over six weeks now, and its purpose will have been served: it will have shown Mr Osborne's concern for the nurses. Or will it? I would guess that the reason it is an exposure draft is that it unlikely to go any further because its main flaw is the one that Mr Moore put his finger on: it oversimplifies the problem and will solve nothing. If Mr Osborne talked to some real nurses, he would find out that that is the fact of it and that his exposure draft is not worth the paper it is written on.

I do not expect to see it come back. Maybe, like Mr Moore, I will not be here in two months time. That is quite possible. But even if I were, I do not think I would see this one come back, frankly.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (11.17): Mr Speaker, there does need to be a correction of some of the things that Mr Kaine has just said. Mr Kaine said that Mr Moore had denied the nurses their pay rise. It is curious. The offer was made late last year. The Calvary nurses accepted that offer, and they have been paid the extra 12 per cent since then. It was a very innovative bid. It looked at some of the problems that Mr Osborne is seeking to address. We wish to retrain, up-skill and offer scholarships to our nurses so that we get the best nursing force we can for the people of the ACT. So what Mr Kaine said there is not accurate.

Mr Kaine made some comments about Mr Osborne's exposure draft—that it creates more problems than it will solve. Mr Moore, on the other hand, has been trying to address the cause of the problem. The problem is the lack of nurses who are available to work in the accident and emergency wards, and that is what we have been working on.

Mr Kaine asserts that the worldwide shortage of nurses, which is a fact, is being thrown up by Mr Moore like some sort of furphy. Australian nurses are at a premium overseas, the value of the dollar and the wages they can pick up overseas certainly make it attractive for many of them to travel. That leads to our dilemma, but it is a dilemma worldwide. At the same time as we are seeking to attract overseas nurses to Australia, overseas countries are seeking to attract Australian nurses because they value them for their skill levels.

The other point is about communication—being out there and talking. My understanding is that both the Chief Minister and the minister for health were at the hospital on Friday night talking to the nurses, as the minister certainly does regularly. Others here could take up the offer that Mr Moore has often made: that he will facilitate visits to the hospital for any MLA that wants them.

MR WOOD (11.19): Mr Speaker, my speech will be brief as usual. I simply say this: it is a well-known saying that to every complex and difficult problem there is a simple answer—and it is always wrong.

MR OSBORNE (11.20), in reply: I have trained myself over the years to ignore Mr Kaine. Do you remember the Muppets? There used to be those two cranky old blokes up in the balcony. Mr Speaker, what Mr Kaine alleged is just not true. I have been working with the nurses for the last six years and, during the recent nurses dispute, I or

my office spoke to them three or four times a day. I do not need to put out press releases or charge out to the hospital on a white horse and strut through the place letting everyone see me there to appreciate that there is a problem. I accept what the nurses say. I accept that there is a problem.

On another point, I have talked about this issue a number of times, and the reason I did not progress it was that the government was in negotiation with the union over a new pay deal. We brought it back last week because of reports that the recent pay offer had been rejected or was not up to the standard the nurses were after. That is why it came back out. I just thought it important to make those points.

The general theme seems to be that there are not enough nurses and that you cannot get them to come to work, so we propose to make their working environment more attractive so that people will come in. Studies have shown, in California especially, that in the long run you save money. Should I be returned, I intend to bring it back up. I have just received an email saying that the old Muppets names were Statler and Waldorf. So, Waldorf, I just thought I would respond.

Question resolved in the affirmative.

Totalcare
Paper

MR BERRY: Mr Speaker, I will be seeking leave to table this. It is only a couple of paragraphs, so I will read it.

> 14.1 Totalcare must not assign its interest in this Deed without the Owners' prior written consent.
>
> 14.2 The Owners will not withhold their consent if:
>
> 1) Totalcare satisfies the Owners that the proposed assignee is financially secure and has the ability to carry out Totalcare's obligations under this Deed;
>
> 2) Totalcare is not in breach of this Deed; and
>
> 3) Totalcare pays the Owners' reasonable costs of giving their consent.

The McDonalds were never ever contacted. I seek leave to table those paragraphs.

Leave granted.

MR BERRY: I present the following paper:

> Totalcare—Copy of agreement—extract from contract.

Public Sector Management Amendment Bill 2001

Debate resumed from 14 February 2001, on motion by **Mr Osborne**:

> That this bill be agreed to in principle.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.24): Mr Speaker, this bill proposes a return to a so-called more traditional style of public service and the concept of a career service, with checks and balances of responsible, as opposed to what you might call responsive, government. It is questionable whether these more traditional structures ever existed in the way that perhaps has been speculated in the background to this bill.

The bill's framework conflicts with what this government understands to be Westminster-style practices in the context of responsible government. As such, the bill represents a fairly serious departure from the way in which government has evolved, not just in the ACT but around Australia, in the last few years.

Mr Osborne claims not to have wound back the clock to the 1950s. He admits that the changes proposed go against trends over the last two decades. Finding the answer for the future in our past is neither sensible nor sustainable in the small future-oriented ACT public service. Mr Speaker, for these reasons the government will not be supporting this bill.

Mr Osborne proposes a series of amendments to the legislation. He put those forward on 9 August. The government has looked at those amendments. They do not change the government's position. In fact, we believe that they make the bill less sustainable rather than more sustainable.

The bill does more than simply undo executive contract arrangements that Mr Osborne and perhaps others in this place might regret. It raises fundamental issues around governments as well as public employment practice and standards. These deserve discussion and consideration at a policy level before debate about the form of legislative expression that that particular policy issue might take.

Legislative Assembly debate in the context of this bill may not be the appropriate springboard for these discussions. It is worth noting that this is not an attempt to say that we do not need some debate about direction of government. In the period of nearly a year that I have been Chief Minister there has been a series of debates going on about direction of the public service. Only a couple of weeks ago an announcement was made about some significant changes in direction for the ACT public service as part of the public service renewal program.

We must have such a debate. We must continue to drive forward a sense of evolution and change in our public service. Wider debate about the direction the public service is taking place at the moment with the proposed review of the Public Sector Management Act. There may also be room in the next Assembly for an Assembly inquiry into this issue. But legislation at this stage is premature. In any case, it is too big a step to take away from present practice without the much stronger background for that to be the case.

The bill adapts elements of the New Zealand State Sector Act 1988, with a number of other provisions which supposed reflect Australian tradition in public sector practice. We need to look for a model which reflects ACT city/state requirements. I am not sure at first flush that the requirements of New Zealand in this respect meet the requirements of the ACT.

We have a different set of government arrangements and different service obligations. Our resource base is very different. It is perhaps not so different as we might imagine, but it is reasonably different, and we need to be careful about adopting a provision for a nation state like New Zealand into the ACT.

The package purports to deliver on objectives of enhancing responsible government through accountability and transparency. In fact, it proposes a different set of accountability arrangements that impact on the function of the public service and its relationship to the government of the day.

The totality of what is proposed does not enhance accountability and transparency. If it does, it does so in a way which greatly damages the capacity of the elected government to be able to be accountable for what it does. It inserts between the government and the community a set of people who become responsible by virtue of the independence that they hold from the decision-making exercise of government.

Although it is important to have a high-quality, responsive public service which is perhaps better defined and better protected in some respects than is presently the case—there is an argument for that—to give them a level of tenure and permanence and a set of accountability arrangement running other than to the government of the day creates the opportunity for this public service to be held accountable separately from the government of the day.

My old-fashioned notion of accountability is that governments, having been elected, have to be responsible for what happens in the affairs of government. If there are mistakes, they have to fix them. If there are issues or problems, they have to address them. If a public service has a measure of independence from government, then the question arises: who is to be held accountable, the government or the public service?

The bill removes what the government sees as important cross-agency obligations and capacity for collective action—the obligation for chief executives to have regard to the interests of the government and the service as a whole under section 29 of the act. I think this is a retrograde move that strikes at one of the ACT public service's strengths in serving its community—that is, the capacity to work across departmental boundaries to provide integrated and coordinated services to the community. We are a small public service, and our size means that we can achieve a level of integration, at least in theory, that other much larger services cannot even aspire to. Collaborative government and a collegial approach are positive values, and I think they should be enhanced, not removed.

Government-wide activity is sometimes incorrectly criticised because of perceived concerns about vertical lines of accountability—who exactly is responsible for making the decision. A balance of accountability and outcomes supported by appropriate levels

of process is more likely to provide the answer—not reacting to an extreme position in the face of criticism or concerns.

The bill, as introduced, provides independence in the employment of individuals to chief executives—new section 62B—potentially removing the capacity of the government to implement service-wide employment policies. An equivalent provision in the New Zealand State Sector Act relates to public service independence in employment decisions about individuals. Failure to see why this is properly framed in this way points to a blurring between two quite distinct issues—independence in public service management of employment, and responsibility and responsiveness to government in matters of policy.

Mr Osborne's amendments now limit this to independence in selection matters only. This is obviously a better approach. However, resolving this issue does not resolve the wider questions of responsibility and accountability. These are issues of substance and require wider discussion before parliamentary debate over drafting and specific clauses.

Public sector employment arrangements should express the desired accountability arrangements, but they need to address that openly. This bill works the other way. It institutes a particular approach to employment, and governance is the side effect of that.

Mr Speaker, let me turn to the issue of politicisation that is covered in this bill. One of the goals of this bill is to bring greater transparency and accountability to the senior executive employment regime to remove the capacity for political appointments in the public service. Obviously, behind this lies a set of beliefs about politicisation of any public service with executive contract employment.

It is ironic that the proposed Assembly veto over chief executive employment as set out in the bill as introduced conflicts fundamentally with the stated goal of rebuilding a non-political, merit-based service. The stated purpose of these arrangements in the bill, in conjunction with the tenure provisions, was to permit out-of-favour chief executives to wait out the tide of ministerial disfavour. These arrangements simply transfer that source of potential disfavour to the parliament.

The amendments circulated by Mr Osborne modify Assembly intervention in respect of some issues. However, the bill, if amended, will still make chief executive appointments disallowable by the Assembly through the operation of the Statutory Appointments Act. More worrying is the amendment that provides capacity for the Assembly to direct a minister to remove a chief executive from office on the grounds of misbehaviour or physical or mental incapacity. I think we really are mixing the streams here, in a way that does promote politicisation of the public service.

What mechanisms will guarantee non-partisan actions by this parliament? If you accuse a government of being political—I suppose that is a fair accusation for the most part—it is equally fair to accuse the parliament of being political. As Mr Osborne said when he introduced the bill, a parliamentary committee should not feel responsible for the quality of chief executives in exercising its power of veto over appointments and terminations. If that is the case, if an Assembly committee looking at these issues is not responsible for quality, then the question arises: what exactly is the benefit of these arrangements? What is an Assembly committee looking at these matters supposed to be doing? If it is not

looking at quality, is it perhaps looking at the political line which a particular public servant might represent in office? The question also arises: where is the accountability? This is an all care, no responsibility approach that contradicts the more accountable, non-politicised theme of the rest of the bill.

It is difficult to achieve transparency in employment arrangements, particularly those that attract community attention. In this context, who would apply for chief executive jobs in the ACT in the face of this kind of parliamentary scrutiny and involvement?

Mr Osborne's amendments replacing Assembly endorsement of chief executive appointments following a report from the relevant Assembly committee, with possible disallowance under the Statutory Appointments Act, do not address the key issue. Public service appointments based on merit should not be subject to parliamentary involvement. They are different from ministerial statutory appointments. They are different also to the arrangements that apply in the United States, where appointments to senior positions in an administration are expressly and patently political. When a particular administration dies, then so do the public sector appointments which have been made by it. But that is not the Australian way. It is not the way in which our public service has been constructed. I do not think we should change our system without very extensive and very careful debate.

There is more political debate today about the public service and the quality of public administration. Public servants occasionally get drawn into this debate. It is not sensible to say this is the result of executive contract arrangements. We may find that tenured chief executives will still be subject to the same public and political focus because of wider community, media and political change.

There is a provision in the legislation for the appointment of a senior appointments commissioner. The government has great concern about the approach that is evidenced in this appointment. The method of appointment and terms and conditions of the commissioner are more akin to an external audit role with ultimate responsibilities to the parliament. I think this is not appropriate for a public official who has to work within the ACT public service, which still essentially is meant to serve the government of the day.

Mr Osborne's amendment to make the commissioner subject to ministerial direction on general or particular matters is no help. In fact, it is not clear what kind of appointment is envisaged. On the one hand, the bill sets up a complex procedure for promoting independence in executive employment; on the other, it makes the key statutory office subject to ministerial direction. If, after this debate, it was decided that some important role in respect of executive employment were desirable, that would be better progressed by enhancing the current commissioner's role rather than reactively creating a new statutory role.

As will be obvious from these comments, Mr Osborne's amendment that prohibits a dual appointment as Commissioner for Public Administration and statutory appointments commissioner is going in the wrong direction. Why create an extensive new statutory role when there is arguably no need for it.

Let me turn to the question of tenure. The approach to tenure for chief executives and executives is not sustainable. While term appointments of up to five years are retained, similar to arrangements we have now, this is against a backdrop of protected tenured employment. Chief executives or executives who have not been re-engaged or whose jobs are excess as a result of organisational change are placed on special assignment until they are found employment elsewhere or they accept a voluntary redundancy package. This is not feasible or sustainable in a small public service with only six chief executive officers.

One of the key issues, that of ensuring high performance standards, is not addressed.

The government takes no issue with the termination on just cause provisions. However, the bill gives only two examples of termination for just cause—incapacity or criminal conviction. While the bill states this list is not exhaustive, it creates the impression of an independent statutory office rather than a person employed to implement policies on behalf of government and achieve results in a public service environment.

Failure to perform or meet job requirements is not mentioned. The bill ducks the key issue of what to do about non-performance or underperformance in critical jobs. Again, a solution to an assumed problem has been proposed without thinking through what kind of service we want and how best to get there.

The constraint on executive termination preferred by this Assembly in 1995, the prohibition on removing chief executives or executives because of incompatibility, is removed.

Building and maintaining a performance culture based on public service values has been a critical issue of this government's reforms. Turning the clock back without addressing the failure of traditional structures is not in the public interest.

Lack of responsiveness to change, lack of service orientation and responsiveness to government, burying performance issues in jobs labelled "special projects"—these are some of the failings reforms in public administration have addressed over the past decade.

The bill creates a possibility of chief executives and executives remaining on the books but doing nothing for years. A small public service environment cannot afford to do this. There is little capacity to respond to changed needs or new challenges.

The bill raises issues that go to the heart of public sector management and governance. There is no detailed conceptual backdrop to these issues apart from the desire for a career service and more traditional structures.

Mr Osborne's framework makes a contribution to debate about these issues. That is what it should be—a platform for debate, not a bill in the form that this bill takes. His advisers have put their arguments for a particular approach, but issues of public interest and accountability are subject to continuing robust debate.

Mr Osborne's introduction speech itself discloses the debate about public interest. He cites the former South Australian Auditor-General who states:

> The primary and only duty of those holding public office is to 'properly safeguard the interest of the public'.

Elsewhere Mr Osborne says a public servant's job is "to either carry out the policies of the government of the day, or to assist in the formulation of policies as required, regardless of personal political beliefs".

They are two potentially opposing views that may be aligned by the view that the public service serves the public and the public interest by serving the elected government of the day. The standard Westminster-style approach reflects the fundamental accountability difference between elected and appointed officials.

The bill proposes answers without asking what the requirements for a robust, professional or service-oriented and responsive public service are. The package does not address key issues around the workability of government and the impact of changes on the territory's governance.

I have mentioned the renewal of the public service which was launched on the 20th of this month. The program of addressing past weaknesses and building on our strengths is a very important program which must continue irrespective of who is in office. The Commissioner for Public Administration is reviewing the Public Sector Management Act. He will be releasing a series of discussion papers over coming months. These will provide a focus for wider debate and discussion.

Leadership, development and training have all been identified for future work. This is a better approach to building strength in the public service than attempting to legislate about the process. What should be avoided is a reaction to past events which simply says that we want to do it differently to what past events suggest was the practice. We need rather to be building a positive, dynamic arrangement for the public service to create structures that improve responsiveness, innovation and community orientation for the public service. I do not think this bill does that, and I therefore suggest the Assembly not support the bill today.

MR KAINE (11.43): Mr Speaker, the present procedure for appointing chief executives of departments is, I think, undeniably defective. Indeed, it is an abnegation of the government's responsibility to the community to take fearless, unbiased, informed and sometimes dissenting advice from the heads of its departments.

No person employed under a performance-based contract that either party may cancel can be expected, realistically, to provide that kind of advice in the face of a minister who has already made up his or her mind about what he or she wants to do, and seeks from the departmental head only a means of doing it and a set of words justifying it. Contracted departmental heads naturally have their personal welfare in mind, and disagreeing with a minister is a certain way to put that welfare in jeopardy. Performance-based contracts are the manure that fertilises the ground and the growth of yes-men and yes-women.

The folklore of public service in Australia used to be redolent with stories of departmental heads who stood up to their ministers, whether on matters of principle, of process, of law or of expertise. This, it seems, no longer happens. Australia's governance is the poorer as a result. Heads of departments have been relegated to the status of high-priced puppets giving ministers the advice that ministers want to hear, even though the truth lies elsewhere—that is, in advice that the departmental head knows to be correct.

This bill, unfortunately, does nothing to deal effectively with those defects. Mr Osborne's bid to return to a career public service, in my view, has merit. But the mechanisms that his bill proposes will not correct the existing problems. Indeed, they are at grave risk of creating a fresh set of problems, less in the actual appointment process than in the external influences to which that process is at risk of becoming subjected. How unacceptable it would be if the appointment of a departmental head was sullied by undignified lobbying for, or more particularly against, one or other applicant. Our reputation in the field of public administration would, in my opinion, be further diminished were that to occur.

Mr Speaker, it constantly surprises me that the government has not yet woken up to the fact that there are two kinds of executives. Operations managers are appointed for their talents for getting things done. Point them in the desired direction, tell them what they are to do, give them the necessary tools and let them get on with the job. If they botch the job, you sack them and get somebody else with the desired kinds of skills to take over.

But, in my view, you should never give executives on performance-based contracts the responsibility for advising government on what needs to be done about a particular situation. For the talents of operators may well not extend to the breadth of vision or the capacity to think in a range of directions necessary for the creative problem solving that decision-making demands. The training of operations managers has fitted them to their tasks. Their contracts make them vulnerable in dissent.

I see no problems in employing operations-type mangers under performance-based contracts, to work out how to implement a decision already taken and then oversee the elves doing the implementation. But such people are not necessarily appropriate for developing policy and providing advice to ministers about policy.

For policy advice, ministers need departmental heads skilled in thinking, analysing, considering options, fitting creative solutions to problems and applying correct process, and I emphasise that. Departmental heads need the moral strength to say, "No, minister. That is not the right way to deal with this issue because ...". Departmental heads need the security of tenure in their office that a performance-based contract would deny them if the independence of their thinking is not to be contaminated.

Departmental heads must be capable of serving a government of any political colour, not only the government which appointed them. Departmental heads must bring to their office the corporate memory that comes only from having risen through the hierarchy on merit and observing and learning the philosophical and moral principles that underlie the giving of policy advice. You do not learn that overnight; it takes years.

One of the terrible regrets that we in this Assembly ought to acknowledge is that there is now a younger generation of public servants whose professional development has not had the benefit of superiors who, in their development, learned these qualities. They are all contracted people, right down the line. They come here and next year they go. That generation, in my view, is at risk of being subverted in their professional standards by the kind of policy-making that has blighted this territory in recent years—the decision-making debacles that led to the implosion disaster, the several stadium debacles, the Kinlyside fiasco, and so on. We all know of all of the instances of poor management and poor decision-making.

We must acknowledge, gratefully, that many of those younger public servants have an intuitive sense of those qualities and endeavour to apply them in their work. But if the people at the top do not possess those qualities because they have not come up through the ranks of the public service, we cannot blame employees at lower levels who may be manipulated against their better judgment. I guess I am talking here about the public service corporate ethic.

Sadly, I do not see Mr Osborne's bill providing the climate necessary for appointment of departmental heads who can satisfy the criteria to which I have referred. Mr Osborne proposes that this Assembly take the review role in the confirmation of departmental heads. This is somewhat different from the practice whereby the United States President appoints his unelected cabinet with the advice and consent of the Senate. This is not the same process by any means.

Despite all the failings of the present government, I strongly support the proposition that no legislature under the Westminster system should have a right to usurp the power of the elected government to appoint departmental heads when a vacancy arises for whatever reason. This legislature has no legitimate role to play in the processes of selecting, appointing and promoting our public servants.

On the other hand, I would equally support the argument that no government newly taking office has the right to automatically flush away all existing departmental heads and replace them with people sympathetic to its own political credo and pliant to its will. That is not part of the Westminster system and the democratic system I support.

While I cannot support the bill because of its proposal to dilute the power of the government to appoint departmental heads, I compliment Mr Osborne for the arguments for reform that he elucidated in his presentation speech. I commend that speech to all members. I suggest that they re-read it. It contains a great amount of wisdom from expert and unbiased analysts, observers and commentators. It describes and dissects some important problems of government. Regrettably, the core solution that Mr Osborne proposes is contrary to good government and parliamentary practice.

Had the bill replaced the practice of employing departmental heads on performance-based contracts with arrangements giving the government power to appoint departmental heads to tenured offices on the basis of merit, experience and professional skills, I might have been able to support it. But it is manifestly undesirable to put the power to endorse candidates for high office in the hands of people who might choose to use that power to frustrate a government. That way lies confusion, frustration and the potential for abuse of

unmerited power. I cannot condone that. So, regrettably, although I admire the sentiment behind the bill, I cannot support it.

MR BERRY (11.53): Mr Speaker, the aim to provide a public service that advises government without fear and in an independent way is a very noble aim. Those on this side of the house and, by the sound of it, Mr Osborne and others aspire to that aim. But it certainly has not been the experience of this Assembly as a result of the approach the government has taken in relation to its public service.

I will deal firstly with the fundamental issue which Labor has difficulty with in respect of Mr Osborne's bill. We are concerned that this bill attempts to shift the responsibility from the executive to the Assembly in relation to its public service. We think that is an inappropriate course. Under the Westminster system the public service serves the executive of the day, as it should do.

I note Mr Kaine's concerns about performance contracts and the closeness of certain public servants to—

Mr Osborne: Come on, pick it up a bit, will you. Put a bit of passion into it. Passionately argue against the bill.

MR BERRY: Would you stop that man from interjecting on me, Mr Speaker? He is throwing me off. He has got me worried. Involving non-executive members of the Assembly in the appointment of senior public servants would be a backward step.

Labor has reached an agreement with the labour movement in relation to changes to the Public Sector Management Act. Any changes to the act will be made in full consultation with them and anybody else interested in the matter when Labor takes office at some time in the future.

Mr Humphries: October, you said.

MR BERRY: Okay, 21 October will do. That is fine. We will just opt out. That will do us. On 21 October, according to Mr Humphries, we will be working on how we deal with our public service, but it will not be about undermining that independent advice which governments rely upon to provide good governance for their constituency.

This is an issue about the government of the day. There has been a tendency in this debate to create the impression that the difficulty with management in the territory has been the public service. Just a few days ago Mr Humphries issued a press release drawing attention to the hospital implosion and the Bruce Stadium fiascos as reasons, ostensibly, to redirect the public service. I know that the Auditor-General found certain elements of the public service wanting in the course of his investigation of those matters. But at the end of the day the public service is a product of the government.

I think the government expected the public service to inherit the government's philosophical position on many things. Public servants, as they are prone to, want to serve the government of the day within reasonable boundaries. I am confident that the boundaries put around our public service by this government required the public service to be an extension of the political arm of the government, in effect. I think that showed

through in many of the problem areas of administration that this government has suffered over its period of office over the last six or seven years.

One only has to go back to the comments of the coroner in relation to evidence which came before him about senior public servants making suggestions to more junior public servants in relation to matters affecting occupational health and safety on the hospital implosion site. One only has to go to the comments from the Auditor-General about the dead-end paper trails which did not allow the him to investigate many aspects of the Bruce Stadium fiasco. But in the end you still keep coming back to the obvious position that the public service is a product of the government of the day and a product of the philosophy of the government of the day.

Mr Osborne, if you want to change the philosophy of the government, you change the government. You cannot change the philosophy of this government. They are rusted-on conservatives who have adopted their philosophy forever—

Mr Osborne: I take a point of order, Mr Speaker. Given the passion Mr Berry is showing this morning, he is clearly debating eggs and egg labelling. I think he has gone off on the wrong bill. We are talking about whether we want a career public service or not. Could you just remind him what bill we are on and ask him to show some passion for this cause?

MR SPEAKER: There is no point of order.

MR BERRY: You are not going to divert me from this point. This is your government, Mr Osborne, and you also—

Mr Osborne: I take a further point of order, Mr Speaker. Mr Berry has misled the Assembly. If you look back to the day of the debate on the Chief Minister, there were two votes for Ms Tucker, so it is not my government.

MR SPEAKER: There is no point of order.

MR BERRY: I can probably recall come instances when you have said, "I do not think it is worth getting rid of this government at this point. Labor is not ready." We have been ready all the time. You have not been ready to change the philosophy of this government, which you could have done at any time, with our willing support. We would have helped you change the philosophy of this government. We would have ensured that the public service philosophy changed as a result, had you wanted it to happen.

Bringing this legislation forward is a fine way before an election of demonstrating your commitment to the noble aims which are described in the speeches, but I am afraid the track record lets you down. The opportunities have presented themselves to change the philosophy of the government and therefore the way the public service performs, and you have failed the test, Mr Osborne.

Opportunities have been lost to make significant change without the sort of approach you have decided to take by trying to swing back the responsibility for the public service to non-executive members in this place. I have always taken the view that the public service is a matter for the executive government. It is not a matter that non-executive members

in the Assembly should be concerning themselves about. To do so is to blur the line between the executive and the parliament. I do not think we should be moving down that path.

There will be opportunities for changes in the public service. I think we have sent the message to the ACT public service that a Labor government will have an entirely different approach. We will expect a different style of public service from the one which has been developed over the seven years of this government, which sees the public service as a political arm of itself.

There are concerns amongst public servants about this approach. Many of them labour under their daily duties with the burden of that concern on their shoulders. Many look forward to the day when there will be a change in attitude so that the public service can go back to the days when it could offer fearless and independent advice to the government on a range of matters and the government would make up its mind whether it took that advice or not. That has not been the case under this government, I fear. I think that has been shown up in examination of some of the fiascos and tragedies that this government has been involved in.

There is a need for change. That change will come with a change in the philosophy of the government. This government's philosophy has permeated some levels of its public service, certainly some of the senior levels from time to time. People have moved on. I do not want to brand any particular public servant with that label, but I think it is fair to say that the inquiries and reports that have emerged from the management difficulties that this government has had have shown that up.

Labor will not be supporting Mr Osborne's bill. We will guarantee that a Labor administration will produce the sort of public service that public servants will be proud to serve in, one that serves the community as an arm of government, if you like, but certainly not one forced to inherit the philosophy of the government. I think the point has been made over and over again that we have to maintain separation between the executive and the parliament. Mr Osborne's bill fundamentally breaches that separation, and if for no other reason it should be opposed.

Mr Osborne: Support the amendments. They fix it.

MR BERRY: Mr Osborne says, "Support the amendments." But there still remains that fundamental breach of the divide in your legislation, Mr Osborne. I will finish with the point that I touched on earlier. This is your government, and you could have changed it. It is a bit late to be saying it is the public servants' fault. This is not the public servants' fault. It is the philosophy of the government that is the problem.

MS TUCKER (12.05): I am a bit disappointed in Labor's response to Mr Osborne's bill. It is all very well to play the political game and say that it is Mr Osborne's government. Mr Osborne said that he voted for me for Chief Minister, so there you go. This is a really important step by Mr Osborne to deal with issues that all of us, apart from the Liberals, have expressed concerns about over the last three years.

This bill will change the current system of appointing senior executives on contract, a system which was introduced by this government in 1995, back to the old system of appointing such people permanently. Department heads and other senior executives would still be appointed to their positions for a fixed term, but at the end of that time, if their appointment was not extended, these officers would be transferred to another position rather than losing their job entirely.

The bill also sets up a new independent process for appointing people to senior executive positions through the direct involvement of a new senior appointments commissioner and the public accounts committee to attempt to avoid political appointments and cronyism. Mr Osborne, in presenting his bill, gave—as Mr Kaine said—a very eloquent speech detailing how the public service has been reformed over the last couple of decades and how the concept of a career public service has been undermined by economic rationalism and the desire of right-wing politicians in both major parties to turn the senior executive into a mirror of a private sector corporation.

I agree with his analysis that the move to place senior executives on contracts has been a retrograde step that has not served the public interest. Mr Osborne, in his speech, quoted from the book *Politicisation and the Career Service* by Curnow and Page, which summed up the benefits of a career public service. I would like to repeat that quote:

> The career service … provide[s] continuity and stability of administration. Political crises may occur in rapid succession, but the security of tenure enjoyed by public servants ensures that essential services continue to be performed. Public servants become the repository of considerable expertise, not merely because of continuity, but also because their appointment and promotion by merit ensures a relatively high level of competence … Overall, the system is more formally rational; more certain and predictable than any other, and possibly more efficient as well. And although the career service does not guarantee the absence of corruption, it does place a premium on professional behaviour.
>
> The independent secure public servant, providing impartial advice, can act as a counterweight to balance the more passionate enthusiasm of political masters, whose decisions are, understandably, alleged to be based solely on short-term political gains. A career service is loyal and responsible to the democratically elected government of the day in accordance with the doctrine of the Westminster system.

On the contrary, the studies quoted by Mr Osborne have found that appointment of executives on contract has led to greater politicisation of the public service. In particular, there was evidence that executives have given emphasis to short-term political perspectives and considerations of future employment prospects in giving advice to ministers.

We have seen a number of examples in the ACT, particularly through the hospital implosion inquest and the Bruce stadium inquiry, of senior executives acting more like yes-men and yes-women than people acting without fear or favour in presenting options to government.

I believe that the contract system of employment has been a significant contributor to the debacles the Liberal government got itself caught up in under its can-do approach to government. Nobody seemed to be prepared to say "cannot".

This bill is an important initiative in improving government accountability, and I am happy to support it. It will not have an immediate effect, but hopefully it will lead to better decisions being made by the ACT government in the future.

I understand that experts advised Mr Osborne in how to structure this legislation. He will speak to that in the wrap-up. I understand that he also worked with the Trades and Labour Council to address concerns that were expressed. I understand that he also worked with the Labor Party. So it is disappointing that we are not getting greater support for this legislation.

MR QUINLAN (12.10): I can understand the motivation behind the legislation. We are hopefully coming to the end of an era when few—and let me stress "few"—public sector appointees have assumed key roles in some less than satisfactory administrative processes.

I am convinced that the root cause of the high-profile fiascos was more a function of the culture that emanated from the executive than it was a function of poor administration alone. It has been a great disappointment over time that the spotlight has been aimed largely at the innocent survivors of the years of bad administration rather than at those who are genuinely responsible.

I do have a little experience in appointing senior executives. I am not enamoured of the process set out within this legislation.

I agree with much of what Mr Kaine said. By coincidence, he is one of the few in this place with the practical background to make genuinely informed comment. I observe that public service heads no longer commence their careers as telegraph boys or girls and that the nature of public administration has changed, necessarily, because of the complexity of the way we do things and the way information is handled and analysed for the purposes of administration.

There is a need for changes to be made. I recall people passing through the administration of this place who were unkindly described as being a little on the cowboy side, and we have seen the product of that in some of the unfortunate outcomes.

The centrepiece of this legislation is the appointment of the senior appointments commissioner. The appointment is to be for seven years. I hope that is not changed by amendment. That means that we could have a different government, a different Chief Minister, different ministers and different public accounts committees still served by the same senior appointments commissioner. That could give rise to some difficulties.

I think we have to be practical and recognise that we have minority government in this place, and minority government spawns an array of committees that can be hostile to government. Committees are certainly not extensions of the ruling government party. That is one of the healthier dimensions of our system of election. But we have to learn to work with that.

If we gave powers to Assembly committees, we might end up with a conflict of interest in their role, given that they are part of the scrutinising mechanisms of government and effectively replace the house of review we do not have. Governments around Australia are used to working with hostile houses of review, so I guess no government here can complain too much about an array of committees that may be hostile from time to time. But it does mean that we have to be practical in the division of roles between the committees and the government.

I do not think this bill is a practical solution, but I understand motivation behind the legislation. The last few years have not been a particularly exemplary period. I trust that the government of the future, whatever its colour might be, learns from that and that we do see more effective administration and administration performing its true role. But I do not think we can go as far as this bill would like us to within the structures of achieving that.

MR SPEAKER: Before I call on Mr Osborne to close the debate, I would like to recognise the presence in the gallery of year 10 students from St Clare's College. Welcome to your Assembly.

MR OSBORNE (12.16), in reply: This whole issue over this piece of legislation is so pathetic that it is nearly funny. I need to answer a couple of things Mr Kaine said. I thought he was going to support the legislation, until he advised me that it had been drafted badly. I remind him that the legislation was put together with the assistance of Mr John Uhr from the ANU, who wrote the bible on the public service, and Mr Tony Harris, the former New South Wales Auditor-General. A number of the criticisms Mr Kaine raised have been fixed by way of amendments we circulated to all members over a month ago. So clearly Mr Kaine has not done his homework.

Mr Speaker, I tabled the bill on 14 February this year. We put a lot of work into it. We put the bill forward because we had had a look at the policies of the Labor Party. I had looked at some of the speeches they had made on the legislation I supported in 1995. We put up a piece of legislation that I never in my wildest dreams conceived the Labor Party would vote against. This bill is about whether we want a career public service or not. I assumed that the Labor Party, perhaps with some amendments, would support the legislation.

I immediately started work with Mr Berry's office on it. He was the spokesman. They had a number of problems. We met with the TLC. We met with the different unions, and I gave them a copy of the bill. I said, "Here, take the bill. Tell me what you think and come back with some recommendations." A couple of weeks later the office of the Leader of the Opposition, who is not here—I suspect he is too afraid to come down and defend his position on this—came out in the *Canberra Times* and bagged the legislation and said, "There is no way we are going to support this."

You can imagine my surprise, given that I had been working with who I thought was the Labor Party spokesman on this issue, Mr Berry. I was approached by members of the media, who said, "Stanhope's office have told us that there is no way they are supporting this bill." The only reason I could get out of them at the time was that it was mine and that they had not thought of it first.

Mr Moore: It is a good reason.

MR OSBORNE: It is a good reason. I will use it. I am going to use it sometime too, I think. If someone else comes up with a better idea, I am not going to support it. How pathetic! Nevertheless, we persevered with Mr Berry. We persevered with the union. I will keep talking until Mr Stanhope has the courage to come down and tell us why he is not supporting this legislation.

We sought advice from the union movement. I also heard a whisper that one of the excuses the Leader of the Opposition was going to give was that he was going to come to some agreement with the TLC on changes to the public service after the election, which Mr Berry ever so quietly mentioned. I have come to agreement with them too, Mr Speaker. They have agreed to support my bill with all the changes. We have circulated amendments which take care of many of the criticisms that some people have expressed today.

Advice given to me by way of the media was that Jon Stanhope's office were opposed to this only because they did not think of it first. They actually think it is a good idea. I am hoping that they will see some sense in the time Mr Stanhope has to get down here and let us know why he is not supporting the legislation.

There is clearly a level of arrogance by some members of the Labor Party at the moment. We have all heard about the polling. We all know that the Labor Party is way in front. We can all assume that the Labor Party is going to win and be in office next time. The policy coming out from this side is non-existent.

Jon Stanhope has spent the last three years criticising this government, criticising the senior levels of the public service at times too. The reality is that those in the leadership of the Labor Party are starting to think, "Hang on. We are going to be on that side soon. We do not really want a career public service. We do not really want to give all those people in the ACT public service an opportunity to go from the bottom to the top. We do not want fearless and frank advice. We want to be able to appoint our mates." That is the truth, Mr Speaker. That is the reality.

Mr Moore: That is what happened with every other Labor government in Australia.

MR OSBORNE: Mr Moore interjects that that happened with every other Labor government in Australia.

Mr Speaker, this is a great opportunity to fix some of the problems. This is a great opportunity to put in place a regime that gives public servants in the ACT the opportunity to be promoted on merit, not to be promoted because they are going to give their boss the advice their boss wants.

I will tell you what I think the root cause of things like Bruce stadium were. I have been here for six years. I think the reality was that some public servants, those people who have had big contracts—they were not for insignificant amounts of money—were too afraid to say no. We have all seen people move—those people who did not fit the mould of what the minister at the time wanted. That is exactly what we are trying to fix here,

but unfortunately it seems that the leadership of the Labor Party in particular wants to keep that model.

All the lies we have heard about wanting to fix up the public service, all the garbage and all the finger pointing have been exposed. I do not want to labour the point. When this legislation was being drafted, not once did I not think the Labor Party would support it. At no time did I think the Labor Party would not agree with a career public service.

Mr Moore: We are close to an election.

MR OSBORNE: We are close to election. There is a level of arrogance by some members of the Labor Party. We all know that they are ahead in the polls. We all assume they are going to be in government next time. Clearly they want to be able to appoint their mates to positions so that they can get yes-men, just as we have seen with the current regime.

It is sad that Mr Stanhope was prepared to say things publicly via the media but is not prepared to come into this place and defend them. He is the leader of the Labor Party—

Mr Moore: For the time being.

MR OSBORNE: For the time being, Mr Moore says. I expect Mr Stanhope to be the leader. He will probably be the next Chief Minister. I think he should come down and tell us why the Labor Party is not supporting this legislation, why he does not support a career public service and why he does not support amendments that the TLC and the different unions have told me personally they support. They support the amendments. They support the bill.

I want to thank those members who have risen to support the bill. I thank Ms Tucker. I think I want to thank Mr berry for attempting to work with us on this. I do not know what happens within the four walls of caucus, but all our meetings with Mr Berry's office were very positive, and I thought we were moving to some consensus, but clearly something is going on. One can only assume that what the media told me was correct. If that is the case, it is a sad day. It is a sad day when a significant piece of legislation like this is not being supported because of petty issues.

Mr Quinlan: It is junk, Ossie.

MR OSBORNE: It is not junk. Mr Quinlan interjects and says that it is junk. I have not heard a decent argument yet from the Labor Party. I will give you leave if you want to speak. Stand up and tell us why you do not support a career public service. Mr Quinlan says the bill is junk. Mr Quinlan, stand up and tell us why. I will sit down. I will give you leave if you want. Tell us why you do not support the bill. Reassure me that it is not that you think you are going to be the Treasurer next year and you want to be able to appoint one of your mates to give you advice and put yes-men around you. Tell us it is not true.

This is a disappointing day for this place and for the ACT public service. We had an opportunity here to fix the problems. We had an opportunity to give public servants a career path. We had an opportunity to have a public service which gives fearless and frank advice. Today has been a major disappointment because the legislation is going to

be defeated. It has been a major disappointment because the arrogance of the Labor Party has shown through. It has been a major disappointment because Jon Stanhope is not brave enough to come down into this place and tell us—

MR SPEAKER: Repetition.

MR OSBORNE: Have you got a problem, Mr Speaker?

MR SPEAKER: I said, "Repetition."

MR OSBORNE: I am trying to talk the time out so that Mr Stanhope can come down. I still have three minutes. We are still waiting. I will go back to the original 12-page speech I made when I tabled the bill. I will get an extension of time and I will keep talking.

MR SPEAKER: That too will be repetitious.

Mr Moore: I take a point of order, Mr Speaker. Under standing order 62, Mr Osborne has to make a speech that is not tedious or repetitious. His speech is clearly both. I hope that he sees this as a warning and now makes an interesting speech. There are people here who like to hear an interesting speech.

MR OSBORNE: Mr Speaker, I will tell you what I will do. I am going to read my speech for the benefit of the girls here from St Clare's.

MR SPEAKER: No, you cannot do that either, because that would be repetition.

MR OSBORNE: I will seek leave to keep talking after lunch, because I want to give Jon Stanhope the opportunity to come down to the chamber. The series of public service reforms that have swept the country over the past two decades were based upon injecting a degree of greater efficiency and flexibility into the day-to-day business of government. I think it is important that I read the first couple of pages. Mr Kaine did say in his—

Mr Kaine: Change the words a bit, Paul.

MR OSBORNE: No, I am not going to change the words. The goal was to produce a public service that was fairly lean, more productive—are you listening, girls—and more responsive to an ever-changing work environment—

Mr Kaine: I raise a point of order, Mr Speaker. Perhaps Mr Osborne needs to be reminded that he should be addressing his remarks to you and not to the gallery.

MR SPEAKER: That is a mistake that is made frequently by one or two members. Thank you, Mr Kaine. I uphold the point of order.

MR OSBORNE: To achieve this goal, academics increasingly borrowed ideas from the public sector. Many of them have worked; some have not. Two ideas that have gained a stronghold in the public sector nationwide are outsourcing and the removal of senior management from permanent tenure and signing them on a fixed-term, performance-based contract. Unfortunately, both of these measures have failed in terms of allowing

public servants to do what they do best—namely, being a cost-effective instrument of administration that is ready to implement the programs of whatever political party holds power as government of the day. Certainly, there may have been increased achievement under these two reforms, but far too often it has been lacking in quality.

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

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

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

Sitting suspended from 12.31 to 2.33 pm

Questions without notice

Canberra Hospital

MR STANHOPE: My question is to the Minister for Health, Housing and Community Services. Can the minister confirm that staffing shortages have forced the imaging department at Canberra Hospital to cancel all outpatient ultrasound services? How serious is the staffing shortage amongst imaging technicians? Can he tell the Assembly what impact the shortage is having on patient care, particularly for oncology patients and the chronically ill?

MR MOORE: Thank you, Mr Stanhope, for that question. Indeed, there are staffing shortages in oncology and nuclear medicine. This has been an ongoing problem, not dissimilar to nursing, but I think a little bit more intense than nursing around Australia. We know, for example, that in Queensland they are paying something in the order of 37 per cent more for people who do this type of work.

The Canberra Hospital has advertised for people who work in the area as radiographers, stenographers and so on for some years. They have advertised, and been successful in advertising, overseas. Unfortunately, one of the things that happen when they bring people in from overseas is that there are times when the staff are employed and then are lured out into private practice, because in hospitals people tend to work shiftwork and do a range of other things. They can be paid reasonably well.

I have had discussions not only with the HSUA which represents these people but also with the hospital to see whether we can find a better working condition for them. The hospital has indicated to me that they are prepared to negotiate AWAs with the workers in this case in order to see whether they can get an outcome that means we can compete effectively with other places. I would not expect that to be for a 37 per cent increase.

I have had ongoing discussions with the HSUA and will continue to have those discussions. I have asked the hospital and the department to prepare a series of issues for me to take to cabinet, which I intend to do this Monday, in order to try to see whether we can find a resolution to these problems.

In the interim the hospital has acted very responsibly and has arranged for some patients to have their imaging services done privately, with the hospital paying for it. This is a temporary measure, but a sensible one, in order to ensure there is the least impact possible on patients, but it is an ongoing problem.

MR STANHOPE: I thank the minister for the answer. In relation to the range of strategies that the minister and the hospital may be considering in order to redress this problem—and I take the point that he makes; that each of the states seem to be competing more and more against each other for a limited supply of nurses, and in this case imaging technicians—has the government considered a range of other strategies designed to attract and maintain imaging specialists in Canberra and at the Canberra Hospital? Has it considered at any stage issues around attracting more people into these professions?

MR MOORE: Thank you for that supplementary question. Yes, I touched on a couple of those strategies. The hospital has advertised internationally and has been successful. We are looking at the working conditions and pay. We have been having discussions with the HSUA. I have had a meeting with people who are working there. They came to see me with the HSUA. In the interim we have ensured that patients will be able to have their services provided. By the way, they were patients who will be bulk billed, so it is not an extra cost to the patient.

Efforts for the recruitment of radiographers, stenographers and so forth interstate have increased. I am informed that the Canberra Hospital hopes to be close to full establishment by the end of this year. So there are a series of actions being taken at the moment to do that recruiting in order to meet what is a problem, and we have some hope.

There was a national drive by, I think, the college of radiologists. I recall seeing in the media last week a statement where they are suggesting that there are significant numbers of patients who are not getting timely treatment because of a shortage of radiologists as well as specialist doctors involved in this area. There is an irony in this because the college of radiologists in the past has restricted the number of people coming into that profession. They also have the support of the AMA. I think there is a broad recognition now in the community that this sort of restriction is creating more problems than it is solving and that we need to work beyond that. We are trying to work in a cooperative way, both on an ACT and a national basis, to improve that condition.

This is a matter of serious concern. Nobody wishes to see somebody who is waiting for treatment, whether it be radiotherapy or assessment treatment for oncology, having to wait longer than is necessary. At this stage people in Canberra are largely being dealt with within the clinically required time frames. There have been a couple of exceptions to that, I understand, but broadly that is happening, and we are working to maintain that standard.

Gungahlin Drive Extension

MR HIRD: My question is to the Minister for Urban Services. Minister, I understand the government has gone through a thorough and proper process leading to the considered decision to proceed with the extension to Gungahlin Drive. Can you confirm when the government plans to complete the extension to Gungahlin Drive? Could you advise the Assembly if the government has considered deferring the project until after the election on 20 October this year? If so, what were the reasons why the government decided not to follow this course of action?

Mr Kaine: On a point of order: is the minister being asked to comment on a matter of government policy, by any chance?

MR SPEAKER: No, he is not. By the way, there was some interjection there about a reflection on the vote; there is no reflection on the vote here. As I said, Mr Hird is seeking information. No, it is not government policy.

MR SMYTH: No, it is Assembly reality. The construction of the Gungahlin Drive extension should commence in the year 2003, with completion in mid-2004. This is, of course, assuming that the Commonwealth Minister for Territories and the Joint Standing Committee on the National Capital and External Territories support the amendment to National Capital Plan No 41.

The government has not given serious thought to delaying the Gungahlin Drive extension until after the election because we understand that the people of Gungahlin need a better roads network and it could cause two to three years of undue delay. A change of mind in the Assembly would cause significant delay. In particular, a subsequent decision to change to the western route would probably lead to a three-year delay in the construction of the Gungahlin Drive extension.

Mr Hird: How long?

MR SMYTH: We believe it would be up to three years. Assuming there is no environmental impact statement, the timing is likely to be: three months as a minimum to resolve the alignment—quite possibly longer; six months, as a minimum, to prepare, release for public comment, review and submit to the minister a new draft variation of the Territory Plan to incorporate a western alignment; a year for referring that to the Committee on Planning and Urban Services; and one or two months for tabling in the Assembly. If we needed to have another environmental impact study, it would add another 12 months to the process.

A similar time frame would apply to a subsequent amendment to the National Capital Plan. Overall, a change to the western alignment would add a minimum of 24 months—more likely, 36 months—to the process. It would delay completion of the Gungahlin Drive extension until mid-2006 or mid-2007, by which time Gungahlin's population will have grown by another 8,000 or 9,000 people. This would add significantly to traffic congestion on roads from Gungahlin. The congestion on Gungahlin roads is already significant.

Delays would add significantly to the cost of the project. With an inflation factor of 5 per cent, delay would add approximately $1.75 million to the cost of the project. As a result of costing this and other Labor projects, the Stanhope spendometer has risen to nearly $19 million in recurrent costs and $13 million in capital costs.

Mr Corbell: On a point of order: I am not sure whether the question asked about the costing of Labor Party policies or, indeed, the total cost in relation to policies.

MR SPEAKER: I uphold the point of order. And there is no need to refer to a spendometer of the Labor Party.

MR HIRD: I have a supplementary. Minister, you will be aware of the concerns of the residents of the suburb of Aranda in respect of Caswell Drive and the proposed extension to the Gungahlin Drive. Can you inform the house what the government's approach to this matter is in light of report No 67 of my Standing Committee on Planning and Urban Services, recommendation 13?

Mr Berry: Mr Speaker, I rise on a point of order. I think he is asking him to reflect on a vote—encouraging and inciting him to reflect on a vote.

MR SPEAKER: I do not even know what the question was.

Mr Hird: Do you want me to repeat it, Mr Speaker? I will repeat it if you want me to.

MR SPEAKER: No.

MR SMYTH: The government's preferred route is that which has been proposed by the Aranda Residents Association, subject to the environmental and engineering studies that would allow such a route to go ahead.

Gungahlin Drive extension

MR KAINE: Mr Speaker, the dorothy dixer that was just asked provides the backdrop to my question to the Minister for Urban Services about the Gungahlin Drive extension. According to this morning's *Canberra Times*, the timetable that the minister just outlined is going to come to a sudden end in light of advice that the government has received that the minister has been told he cannot gazette a territory plan variation removing the western, community-favoured route until the NCA has completed its own process to vary the National Capital Plan. It might all come unstuck and all come to nought and therefore the program that you have outlined has no status until the NCA has looked at the matter. Minister, will you table a copy of the advice that you have received from the NCA on

this matter so that we can all be informed, and will you undertake to abide by the authority's advice on this matter?

MR SMYTH: Mr Speaker, you clearly should not believe everything you read in the *Canberra Times*. The government certainly does not. We operate on fact, not on stories that are written up in the local daily paper. As I pointed out in the answer to Mr Hird's excellent question, this is all subject to variation 41 of the National Capital Plan.

In regard to Mr Kaine's question, the government believes that, the Assembly having not approved Mr Corbell's motion, we have the approval of the Assembly to continue with the Gungahlin Drive extension. As we have always said—as we have said for almost five years now—it is the road we would build. Some of those opposite are trying to dupe the public into believing that they can actually magically build this, having conducted—

Mr Quinlan: On a point of order, Mr Speaker: "trying to dupe the public", would that be an unparliamentary reflection?

MR SMYTH: We already have from the opposition planning spokesman an assurance that he can continue the process and that he can meet the government's time lines. The reality is that he cannot. He will be known, as he has been known before, for trying to dupe the public on planning matters by putting out misinformation.

MR SPEAKER: That I will uphold, thank you.

Mr Corbell: Mr Speaker, I ask that you invite the minister to withdraw.

MR SMYTH: Mr Speaker, I happily withdraw. But I remind this place that Mr Corbell said—

Mr Quinlan: No, you withdraw and that is it.

MR SPEAKER: He did withdraw.

MR SMYTH: Mr Quinlan, I said that I happily withdraw. If you did not hear me the first time, I will say it again. But I will remind the Assembly—

MR SPEAKER: Get on with your answer, please.

Mr Quinlan: Thank you. I have the call.

MR SMYTH: I am not finished.

MR SPEAKER: The minister has not finished answering Mr Kaine's question. Mr Kaine might have a supplementary.

MR SMYTH: Mr Kaine might like to ask a supplementary. I will wait for the supplementary.

MR KAINE: Mr Speaker, I do have a supplementary. I think that the minister may have just put himself in the position of misleading the Assembly when he says he has not received anything from the NCA. My advice on this matter does not come in fact from the *Canberra Times*. It is much more direct than that. So I ask the minister again: will he table a copy of the advice that he has received?

Furthermore, as a supplementary question, will the minister undertake not to do anything between now and the start of the pre-election caretaker period on 14 September that would result in the effective exclusion of the western route from further consideration in light of the advice that you have received from the NCA?

MR SMYTH: Mr Speaker, I will follow the advice of the Assembly and the process that is laid out for the revision of a territory plan—that is, that the disallowance not having been supported yesterday, the process is that as a matter of course the variation would be gazetted.

TransACT

MR QUINLAN: My question is to the Chief Minister and relates to TransACT. I understand that the Chief Minister is scheduled to make a statement today in the Assembly regarding the decision of some of the shareholders to increase their investment to varying degrees. The statement was due yesterday. I am assuming it is going to be made today.

Based on past form, the statement may contain no more information than recent replies to questions without notice, so I thought I would take this opportunity to try to educe some specificity. The Chief Minister has given two answers to questions seeking his knowledge of the estimated final cost of the TransACT cable rollout. He has said that he did not know, and he has said it was around $200 million. Is the Chief Minister now prepared to provide a more indicative idea of the estimated total rollout cost of TransACT?

MR SPEAKER: I remind the Chief Minister of standing order 117 (f), about anticipating business on the notice paper, if that is the case.

MR HUMPHRIES: I will be answering that question in my statement shortly.

MR QUINLAN: I ask a supplementary question. How much needs to be further found beyond current investments made and commitments made?

MR HUMPHRIES: I will be answering that in my statement as well.

Mr Berry: Mr Speaker, business usually involves a motion or a bill, but does it include a statement?

MR SPEAKER: Standing order 117 (f) states:

> Questions may be asked to elicit information regarding business pending on the Notice Paper but discussion must not be anticipated;

Mr Berry: It is hardly business. It is just a statement from the minister.

MR SPEAKER: There is a ministerial statement listed. I do not know what it is about.

Mr Stanhope: It was listed yesterday. You just list a ministerial statement every day and you answer no questions.

MR SPEAKER: Just a moment. I would imagine that you will get your answer in due course anyway, as the minister has indicated.

Mr Quinlan: Mr Speaker, if it helps, I am prepared to wait until the ministerial statement, provided that Mr Humphries is prepared to give a complete answer.

MR SPEAKER: I am afraid that is entirely up to the minister.

Caswell Drive

MS TUCKER: My question is directed to the Minister for Urban Services and relates to the media release put out last night that stated that the government supports the Aranda Residents Association over their preferred route for the Caswell Drive duplication, which is for building a new Caswell Drive some 200 metres to the east of the existing road opposite Aranda and turning the existing road into a local access street for Aranda residents.

Minister, in your media release you stated that the Aranda Residents Association's preferred route is the government's preferred route and that the government's preferred route for this road is to have the duplication as far away from houses as possible. I find it quite unusual that you have said that after a long debate in this Assembly over variation 138 which, when you look at the maps, is based on Gungahlin Drive directly joining the existing Caswell Drive at Belconnen Way. If you are now supporting the moving of Caswell Drive 200 metres to the east, variation 138 becomes inoperative. Other members who supported the eastern route should be concerned as the southern end of the route that they think they approved yesterday will not be the one that will have to be built if Caswell Drive is moved.

Minister, are you going to put out a replacement plan variation to move Gungahlin Drive to the east to match a moved Caswell Drive or are you just giving Aranda residents a false sense of security before the election, but have no real intention of moving Gungahlin and Caswell drives? It is quite clear that you will have to change that variation if you mean what you said.

MR SMYTH: As I said in the press release, that is subject to feasibility studies and an engineering analysis to make sure that it is achievable. It is the process that we have always followed. A route has been proposed. We happen to believe that moving it slightly to the east will give a better outcome for the Aranda residents. We will now do the feasibility and engineering studies to see whether that is achievable.

MS TUCKER: I have a supplementary question. Given that Caswell Drive was not part of the terms of reference of the Maunsell inquiry, which only examined the environmental impacts of the Gungahlin Drive extension between Belconnen Way and

the Barton Highway, will you now be initiating a preliminary assessment of the proposal to move Caswell Drive, which opens up a whole new range of issues about the impacts on Black Mountain?

MR SMYTH: Following the process, it may trip a preliminary assessment. It may even trip an environmental impact assessment. As my press release says, we will do the required feasibility and engineering studies to see whether this route is achievable.

Correctional facility

MRS BURKE: My question is to Mr Moore. Minister, we are aware that the government—

Mr Stanhope: There is inconsistency here.

MR SPEAKER: Mr Stanhope, it will take longer than you will be in this chamber if you keep interjecting.

MRS BURKE: My question is to Mr Moore. Minister, we are aware that the government is going through a thorough and proper process leading to the development of a new multipurpose correctional facility for the ACT. Can the minister confirm when the government plans to have this new correctional facility available? Can the minister advise the Assembly whether there is any threat to this timetable being achieved? Can the minister advise the Assembly of the impact on this project if there is any delay?

MR MOORE: What an excellent question. Thank you, Mrs Burke, for that very thoughtful question. The government hopes to build a new multipurpose correctional facility because we wish to move to a modern corrections system which rehabilitates offenders to being constructive members of the community. Not only is this about basic optimism in people's humanity but it is also about reducing crime which these people may otherwise go on to commit.

In addition to this, there is a desperate need to replace the Belconnen Remand Centre, which holds several dozen difficult persons remanded by courts pending their trials. The facility, I think most members recognise, needs urgent replacement. That will be part of the purpose of the multipurpose facility we plan.

The government aims to have the facility commissioned by 1 January 2004, a little over two years from now. Unfortunately, this ambition is seriously threatened by doublespeak we hear from those opposite. They say that they agree with this project, but they are getting into political exploitation which must inevitably defer it. It is time to expose what that contradiction looks like and what the facts are.

This government has adopted the recommendations of Mr Hargreaves and other MLAs who investigated a site on rural land in Symonston. On the many complex criteria for the project, the site appears to be satisfactory—indeed, from my perspective, the most satisfactory yet found. The project is advancing slowly through the complex planning and consultation process, a process which still has some way to go.

In contrast, the Labor Party has a lot to do with alarming, unsettling and misleading residents in some South Canberra suburbs and has glibly claimed that they will search for another site. At the same time as they are saying they will find another site, they are saying they will deliver on the government's 2004 timetable. Impossible. The basic facts of our planning laws, our political process and the needs of good public consultation make this impossible.

Here are the details. Let us assume that a government directs that the current site be abandoned and a new one identified by the planning department. Step one is to confirm the criteria for the site and identify any sites that meet these criteria. In 1998 that took 10 weeks. Let us say the task takes only six weeks. Step two would be a feasibility study process. We are advised that, on experience, a minimum of eight to 12 weeks would be needed to do this completely.

Step three is the big one. Step three is public consultation through the Assembly. As this government did in 1999, the Assembly committee would need to conduct independent scrutiny and give the public the opportunity for independent review. Based on the experience in 1999, we are looking at between six and nine months. It is a slow process, but I do not think any MLA here would decide that they wanted to bypass it. The government certainly would not. So far we are up to at least 40 and perhaps up to 60 weeks.

Step four, assuming a new site is selected, is to conduct a formal preliminary assessment for the planning law. Obviously, there could be no skipping this step. As there would be a major contract for professional services, a tender would be needed—that is, eight weeks—followed by an estimated 16 weeks of professional work, followed by an evaluation by the planning department of a minimum of six weeks, realistically estimated at up to 12, including all the additional procedures. We are talking about perhaps another 36 weeks. Assuming everything goes well and that every stage proceeds in sequence, the grand total is between 76 and 96 weeks—nearly two years.

Labor's policy means that two years after abandoning the Symonston site they will have reached the same point as we are almost at now and they will still have a site with some form of opposition, because any site will have local opposition. And they will be getting close to an election. If after the coming election they are in government, do not think the people then opposite will not use the same tactics as they are using.

We have already considered the alternative site problem.

Mr Hargreaves: No, you haven't.

MR MOORE: So did you in your committee. The only credible sites that meet criteria in the same way—

Mr Corbell: We will name it after you if you like, Michael.

Mrs Burke: I take a point of order, Mr Speaker. I am having great difficulty hearing the minister's answer with the continual interruptions from the other side.

MR MOORE: I can understand their embarrassment. They have been caught out saying that they can do two things which are simply impossible. They cannot have their cake and eat it too. The only credible sites which meet criteria in the same way—

Mr Stanhope: What? You can't be an Independent and a Liberal minister?

MR SPEAKER: I warn you, Mr Stanhope.

MR MOORE: The only credible sites which meet criteria in the same way as Kinlyside close to Gungahlin and a possible site in Hume—

Mr Hargreaves: The Michael Moore Correctional Centre.

MR SPEAKER: Mr Hargreaves, do you want to join Mr Stanhope in a warning? Just keep it up.

Mr Stanhope: Was I warned?

MR SPEAKER: Yes, you were.

MR MOORE: Kinlyside, which is close to homes in Gungahlin and Hall, and a possible site in Hume close to homes in Tuggeranong are probably even more vulnerable to local scare campaigns than the original site, and both these sites have Territory Plan or National Capital Plan issues which would add months on top of the process I have outlined.

In addition to the extensive and expensive dedication of two years of public service time to search for an alternative site, it would cost an estimated $140,000 in professional fees for the feasibility and preliminary assessment studies. And I have not even added the 5 per cent factor that Mr Smyth correctly raised.

Perhaps at that time a new version of the extensive Rengain study would be asked for, because two years later you would say it was out of date. That might mean another $500,000.

The greatest costs are two more years without a correctional system reformed to address rehabilitation, two more years of prisoners scattered around New South Wales, two more years of prisoners returning to the ACT on release with the consequences of that style of imprisonment adding to the risk of reoffending and two more years—

Mr Hargreaves: And two more years of no Michael Moore.

Mr Corbell: No more years of you.

MR SPEAKER: I warn you, Mr Corbell.

MR MOORE: And two more years of intolerable conditions for the staff and detainees at the old Remand Centre at Belconnen. Labor cannot deny this, because none of the time frames I have described can legitimately be skipped. Ironically—and there is a great irony in this—

Mr Berry: It this theme your idea, Michael? It would have to be.

MR MOORE: Here we go. Now we have got Mr Cackle Berry going on with his interruptions. Ironically, Labor has proposed a short-term solution to the low-security Periodic Detention Centre—that it be refitted to hold high-security remandees. Astonishingly, this facility is located at Symonston.

Mr Humphries: Mr Speaker, I rise on a point of order. It is very difficult to hear the minister's response. I would ask that you warn members.

MR SPEAKER: There are two under warning already, Chief Minister.

Mr Humphries: A few more might need to be warned as well.

MR SPEAKER: There will be a third if Mr Hargreaves keeps this up.

MR MOORE: All remandees are held in maximum security. They are going to have the Periodic Detention Centre used. It is almost a kilometre closer to the South Canberra residential areas than the proposed new correctional facility would be. The irony and the double standards in this are mind-boggling.

We ought to be able to deliver this service by 2004. If Labor pursues the policies it has announced, it will not be able to deliver them until 2006 at the earliest.

Public hospital waiting lists

MR RUGENDYKE: My question is to the health minister, Mr Moore. Minister, two years ago the health committee completed a report on public hospital waiting lists. One of the recommendations that the government agreed to was about consulting with specialists and the division of surgery to work towards developing a trial for pooling public patients that addressed the overservicing and medico-legal problems raised by the division of surgery. Has a trial been developed? What strategies have been implemented to reduce waiting times?

MR MOORE: We have managed to improve our pooling processes. It became very clear that the medical specialists objected vigorously to having patients pooled. We are still examining that and we are looking at the methodology being used in Western Australia. In the interim, perhaps because of the pressure of the Assembly committee, the specialists themselves, particularly in the areas of specialty in which we needed more cooperative relationships, have effectively pooled themselves. I think particularly in terms of orthopaedic surgery, where specialists who had longer waiting lists have been handing their patients over to specialists with shorter waiting lists; so an effective pooling process has occurred there.

One of the strategies that members will remember being made public was that we would put out some of our elective surgery waiting list to tender. In the six months since I was last informed, there was a category one patient one month who was beyond the clinically required time frame of 30 days, with the average sitting at about 15 days. The patient

I referred to was an anomaly. There was another reason why the patient went beyond 30 days.

For the category two and category three patients we have not done so well, but we have improved. The waiting times have come down. That is the critical factor. Also, although it is not important, the waiting lists have come down. That is because there has been a coordinated strategy. There has been a change to the sorts of practices that generically we call pooling. There has also been a change to the way theatres are run. Nurses have agreed to a change in approach at the Canberra Hospital and there has been more time provided for theatres at Calvary Hospital in order to move more patients through our system.

I am very proud of the fact that those people who go to the hospital in an emergency are dealt with straightaway. If they are placed in category one, they should be done within 30 days. The average has been 15 days, but I expect that the average will go up after the winter break. It has not yet reached 30 days, as I understand it, but there has been pressure on the hospital. Elective surgery has moved. We would expect that to level off for a while at this time of year and then we would hope that it will improve again. That is certainly the strategy. I am extremely proud of what the government has done in terms of waiting times and waiting lists at our hospital. The committee's report was particularly helpful in giving direction and in making sure that we were able to do that.

MR RUGENDYKE: I have a supplementary question. Another recommendation of that report that was agreed to by the government was about producing an information pack or brochure providing patients with a complete list of options available to them to minimise their time on the waiting lists. Has that occurred? Could you provide a copy of that information pack to the Assembly?

MR MOORE: I will have to take that part of the question on notice and get back to Mr Rugendyke, which means by tomorrow under our new standing order. I can say that a leaflet of the type Mr Rugendyke described is being used in the emergency section at the Canberra Hospital and people who come into the emergency section are given an indication on it of the level of triage so that they have a much better understanding of the sorts of things that happen, why they might wait and so on.

Mr Berry: Do you invite them to go to the private hospital, too?

MR MOORE: I can hear Mr Cackle Berry interjecting from over there.

Mr Corbell: I take a point of order, Mr Speaker. It is a breach of standing orders not to refer to members by their proper titles.

MR SPEAKER: I could not hear what Mr Moore said because there were too many interjections. If that is the case, you may withdraw, Mr Moore.

MR MOORE: Just to clarify it, I referred to Mr Berry as Mr Cackle Berry. I think that might have been the thing. It is hardly unparliamentary, Mr Speaker, but if they want me to withdraw "Mr Cackle Berry" I will withdraw "Mr Cackle Berry".

It seems to me that that is a very useful device at the emergency section of the Canberra Hospital to help people understand what is happening around them. We know that sometimes people go in there and wait for up to four hours with, perhaps, a broken finger and do not realise that what has happened is that the emergency section has taken on two burns victims whose handling requires a huge amount of intensive staffing power. Those sorts of things do happen in the emergency section.

We have also taken another step at the emergency section to try to assist with that problem; that is, just recently we opened a low-acuity clinic staffed by general practitioners—a similar one exists at Calvary—so that somebody who comes in with a cut and needs a couple of stiches or has an issue that might be able to be dealt with by a GP can be triaged there. That opened two or three weeks ago.

Gungahlin Drive extension

MR CORBELL: My question is to the Minister for Urban Services. Can the minister confirm that he has been advised by the National Capital Authority not to proceed with the gazettal of the variation to the Territory Plan for the Gungahlin Drive extension until the National Capital Plan variation process is complete? Will the minister table a copy of any correspondence he has received from the National Capital Authority on this matter?

MR SMYTH: I am aware that there is some correspondence. I have not seen it. I have asked my staff to get me a copy. As soon as I get it, if it is able to be tabled I will table it.

Mr Corbell: And the first part of the question?

MR SMYTH: As I said, I have not read the correspondence.

MR CORBELL: Minister, is it not the case that to vary the alignment of the Gungahlin Drive extension parallel to the existing Caswell Drive will require a variation not only to the Territory Plan but also to the National Capital Plan? Can you tell the Assembly how long you anticipate this process taking?

MR SMYTH: Mr Speaker, as I have said, we will follow all due process. The process has a length which the opposition is very much aware of. If there is a variation to both the Territory Plan and the National Capital Plan then that would have to be undergone.

Mr Corbell: Does it require a variation to the National Capital Plan?

MR SMYTH: Yes, it is in one of the defined areas on the national plan. Mr Speaker, what I said in my press release yesterday is that we would carry out the studies and then the processes would have to be gone through to achieve the variation. If that includes, and it does, a variation to the national plan, then so be it; the same as the process for the Gungahlin Drive extension has included, or will include or should include a variation to the national plan.

Mr Corbell: How long will it take?

MR SMYTH: As long as it takes. You know the process.

Individual support packages

MR OSBORNE: My question is to Mr Moore—I have had a discussion with him so he knows it is going to be asked. Minister, I have been approached by and have had some phone calls from people who have advised me that some people with a disability are finding that their individual support packages, ISPs, are inadequate. Have you been approached to increase any of these ISPs? If so, can you tell me what the situation is with this program?

MR MOORE: Mr Speaker, disability services, as members would be aware, are being examined by Justice Gallop, and I am being careful to make sure that I do not pre-empt any of his findings. Certainly, some people have put to his inquiry that we ought to move to a complete system of individual support packages instead of the current mix we have of individual support packages, group homes and people being funded in generic terms.

There are some people who are most effectively dealt with by individual support packages. But I have to say that a number of approaches have been made to me recently, some of which have been through Mr Wood, who has a particular interest in and has taken a personal approach to this area. Some of the individual support packages are over $200,000 each, so we are talking about very large sums of money.

Mr Speaker, it does not surprise me that people find that individual support packages turn out to be inadequate. This is because the cost of services change, expectations change and a range of other things change. I have to say that if we were to change the system of individual support packages, whoever is standing in my place and whoever has this responsibility will have extraordinary difficulty in meeting the budgetary requirements.

What invariably happens is that people, having been assessed as being suitable for an individual support package, find that they are not able to do what they expect to do with that package. Most people would say, "Look, $200,000 a year, even to somebody with a particularly severe disability, would seem to be an extraordinary amount of money." In fact, when that level of money is managed in a coordinated way you can often wind up delivering far better services.

Mr Speaker, I think the approaches that have come to me recently indicate one of the problems with individual support packages. I think it is important for us to keep in mind that although they do provide one solution, and for some people the only solution, generally I think it is a system that is terribly overrated.

MR OSBORNE: Mr Speaker, I ask a supplementary question. Minister, are you able to tell us how many people access ISPs and how much money it costs each year? You may have to take this question on notice until tomorrow.

MR MOORE: Mr Speaker, I will take that question on notice and hopefully either come back tomorrow or, in accordance with new standing order 118 (a), come up with an appropriate explanation.

Cleaning contract

MR HARGREAVES: My question is to the minister for housing. An article in the *Sunday Times* of 26 August reported a managing director of a high-profile cleaning company as saying the company was forced to take other measures to deal with its growing workers compensation premiums. Can the minister confirm that this company currently holds a contract to clean common areas and windows of ACT Housing multi-unit properties?

MR MOORE: I do not think I read the article. I do not know which company you are referring to. I would not be able to confirm that because individual contracts are done at quite some distance from me. Housing, as of 1 July, changed the people who provide services. We changed to a total facilities management process. We have one contractor providing management of our facilities in the north of Canberra and another contractor providing facilities south of Canberra. If there is a situation like that, I doubt that it would be either of those two major contractors, and therefore it may be a subcontractor to them. It would not be something I would expect to know or would expect to take responsibility for.

MR HARGREAVES: I have a supplementary question. Will the minister get a copy of that article on 26 August and will he investigate that the other measures concerned involve the dismissal of the company's 70 cleaning staff and the subsequent re-hiring of them as independent contractors?

MR MOORE: Mr Speaker, if Mr Hargreaves would like to get a copy of the article for me and get it to my office—

Mr Hargreaves: Oh, for God's sake. Don't tell me you have not got it?

MR MOORE: I have 24 hours to answer this question. If you get me the thing I will examine it and see what I can find out.

Endoxos

MR BERRY: My question is to the minister for health. It is in relation to the same matter. Will the minister investigate whether the cleaning firm Endoxos employs independent contractors to do work contracted by ACT Housing and whether the company is no longer having to meet not only workers compensation premiums but also is avoiding long service leave, sick leave, superannuation, public liability insurance, PAYE tax and GST? Would the minister agree that, in adopting such a strategy, this company is seriously altering the so-called level playing field that should apply to all tenderers for government contracts?

MR MOORE: I will take that question on notice, Mr Speaker.

MR BERRY: Mr Speaker, I ask the minister: while he is investigating, will he also investigate whether the contract with this company contains a clause that prevents the use of subcontractors; and, if so, what sanction the government will take against the company for breaching its contract?

MR MOORE: Mr Speaker, I will take that question on notice as well. But I have to say it is a very strange thing we do in this Assembly when somebody says, "I'll take something on notice," and there is a supplementary to the words "I'll take that on notice".

Mr Berry: Mr Speaker, the minister can take his choice: he can either take it on notice or put out a press release.

MR SPEAKER: Order! Mr Minister, I do appreciate what you said, but it is no stranger than during questions without notice somebody rising and saying, "I have already spoken to the minister on this matter."

Nursing home beds or high-needs beds

MR WOOD: It is with some trepidation that I ask this question of Mr Moore, because, since I want some data, there has been a notification given. Can I apologise, Mr Speaker. Mr Moore seems to think not. I did contact Mr Moore's office this morning. You may have something there, Minister.

My question concerns nursing home beds. This is a bit of a problem around Australia. I want to see what the ACT situation is, if you can tell me. Basically, I would like to know how many nursing home beds or high-needs beds have been allocated to the ACT by the Commonwealth; that is, how many we are entitled to at the moment. You might know how many are filled. But the problem that may be there is: how many have been allocated to the ACT but have not been built? Maybe we are searching for organisations to take up those offers. What is the gap, if there is one, please, Minister?

MR MOORE: Mr Speaker, I have to say I am very reluctant to answer this question because it is inconsistent with standing orders. I will explain why. Mr Speaker, I do not have responsibility for nursing home beds; that is a Commonwealth responsibility.

There are some areas of ageing and nursing homes that I do have responsibility for. The aged care assessment team is part of my responsibility. We can have some indications from that—though we know the sort of people involved—of how the assessments are done. They are normally done within three days. We know that currently the waiting list for nursing home placements has approximately 50 people on it. I can indicate that.

Mr Speaker, the reason I am reluctant to take on Mrs Bishop's responsibility is that I don't want to confuse the minds of people outside about just whose responsibility it is. One of the great dangers is that the federal government is particularly adept at cost-shifting towards the state and territory governments, and we always have to be very guarded about it.

Mr Speaker, I am happy to provide for Mr Wood a briefing on the information that we are able to access but I am very reluctant to publicly comment on issues that are Mrs Bishop's responsibility.

MR WOOD: Thank you, Minister. I find that a bit strange, I have to say. I will take up your offer. I take it to mean that you have the information. I am happy to receive it. I think it is important that the ACT knows what the circumstances are.

MR MOORE: Yes, Mr Speaker, it is appropriate that people in the ACT know the circumstances, and that is why the correct thing for Mr Wood to do is approach Mrs Bishop's office or I will do that on his behalf. I don't know what information we have in the department, Mr Wood; that is why I offered a briefing on whatever we have. We try to work closely with Mrs Bishop's office in order to get a better outcome. I have spoken in the Assembly of working with her in order to get some extra beds at Morling Lodge not so long ago. If I can be helpful I will.

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

Williamsdale quarry

MR HUMPHRIES: Mr Speaker, I took a question on notice from Mr Berry on 23 August about Williamsdale quarry. I present the following paper:

> Williamsdale quarry—Answer to question without notice asked of the Treasurer by Mr Berry and taken on notice on 23 August 2001.

ACTTAB

MR HUMPHRIES: Mr Speaker, on 9 August Mr Stanhope asked me a question about ACTTAB. Mr Corbell also asked me a question about ACTTAB on the same day. On 23 August. Mr Corbell asked me another question about ACTTAB. I table answers to those questions. I present the following papers:

> ACTTAB headquarters—Answer to question without notice asked of the Treasurer by Mr Stanhope and taken on notice on 9 August 2001.
>
> ACTTAB headquarters—Answer to question without notice asked of the Treasurer by Mr Corbell and taken on notice on 9 August 2001.
>
> ACTTAB headquarters—Answer to question without notice asked of the Treasurer by Mr Corbell and taken on notice on 23 August 2001.

Transgrid

MR SMYTH: Mr Speaker, on 21 August, after a question from Mr Corbell, Mr Humphries agreed to seek more information. That information is as follows.

The maintenance agreement mentioned in Transgrid's report, *Investment into easement maintenance in the Canberra area*, has been finalised between Transgrid and a number of other New South Wales government agencies. This is an appropriate mechanism to ensure coordination between agencies of one government, given Transgrid is a New South Wales government corporation.

In the case of Transgrid's easement in the ACT, it is important to have a more formal arrangement, based on appropriate environmental and development approvals, for work that an agency of one government wishes to undertake in the jurisdiction of another government.

These requirements exist in ACT legislation such as the Environment Protection Act 1997, the Land (Planning and Environment) Act 1991 and the Nature Conservation Act 1980. In the case of the clearing undertaken in Namadgi, Transgrid failed to notify the ACT government of its desire to undertake the work, failed in its obligation to consult with stakeholders, and sought no clearances before commencing work. As a member of the urban services committee, Mr Corbell is aware that the government has provided advice to the committee on this issue.

The ACT government is pursuing legal action in this matter, and therefore discussion is limited to that which will ensure the best possible chance of legal success. I am sure that this Assembly would join the government in supporting that action.

Gungahlin Drive Extension

MR SMYTH :Mr Speaker, further to some answers I gave today on Caswell Drive, I will read a short paragraph from the press statement to make quite clear what I said yesterday. It said:

> Whether the preferred route was in fact feasible still remains to be seen and the final route would be determined after detailed engineering and environmental studies had been undertaken. It also needed NCA approval and that of the Commonwealth minister.

Endoxos

MR BERRY: During question time Mr Moore took a question on notice from me. I have just been handed a statement that will assist him. It is a statement from the union in relation to these matters. I ask for leave to table the paper.

Leave granted.

MR BERRY: I present the following paper.

> Endoxos—Pay rates—copy of media release from Liquor, Hospitality and Miscellaneous Workers' Union relating to contract employment, dated 29 August 2001.

Cleaning contract

MR HARGREAVES: Mr Speaker, during question time, the minister for housing invited me to provide him with a copy of the article from last Sunday's *Sunday Times*. I ask for leave to table the article for that very purpose:

Leave granted.

MR HARGREAVES: I present the following paper.

> Workers Compensation—Copy of newspaper article "Businesses face workers compensation crisis".

Personal explanation

MR HARGREAVES: I ask for leave to make a personal explanation under standing order 46.

Leave granted.

MR HARGREAVES: Earlier on, in some ramblings, Mr Moore said that it was the Labor Party's position that high security prisoners at Belconnen Remand Centre be accommodated—

Mr Humphries: Mr Speaker, I rise on a point of order—

MR HARGREAVES: For heaven's sake.

Mr Humphries: It is generally accepted that misrepresentation of a party position is not justification to make an explanation under standing order 46, which allows for explanations of a member's personal position. At no point did Mr Moore allege that Mr Hargreaves had made that particular point.

MR HARGREAVES: On the point of order, Mr Speaker: he did. He actually said, "the Labor Party spokesman said" and, as I am the spokesman, that statement therefore refers to me. This is a personal explanation on that issue.

MR SPEAKER: I will allow the Labor Party spokesman to provide an explanation, but I will check the *Hansard*, Mr Hargreaves.

MR HARGREAVES: Thank you very much, Mr Speaker. I am happy about that. In fact, Mr Moore suggested that it was our position, and my position, that the maximum security classification people from Belconnen Remand Centre be accommodated at the Periodic Detention Centre. An examination of the public record and the *Hansard* of this place will reveal that I made no such suggestion.

In fact, it has been my suggestion that the classifications of those on remand at Belconnen Remand Centre be re-examined, and that those people with minimum security classifications, particularly women, may very well be accommodated at the Periodic Detention Centre.

To respond to the Chief Minister's open-arms gesture, I say that it was suggested that the Labor Party was supporting the transfer of maximum security classification prisoners. We were not suggesting that, and I made it absolutely crystal clear, on the public record and in this place, that maximum security prisoners would remain exactly where they are.

Mr Moore: Could I clarify the understanding of standing order 46, Mr Speaker? The point that I was trying to make in my answer was that all prisoners who are on remand are considered maximum security.

ACT Women's Action Plan 2000-2001—Final Implementation Report
Paper and statement by minister

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

ACT Women's Action Plan 2000-2001—Final Implementation Report, August 2001.

Mr Speaker, I ask for leave to make a statement.

Leave granted.

MR HUMPHRIES: Mr Speaker, I am pleased to table the *ACT Women's action plan 2000-2001: final implementation repor*t. The women's action plan was launched in March 2000 as part of the government's commitment to making a real and measurable difference to the status of women.

The final implementation report highlights the achievements that have been made across government in each of the four themes of the plan, which broadly cover the different aspects of women's lives. These themes are representation and recognition; health and wellbeing; economic independence, continuing education and training; and violence and community safety.

I will now mention some of the tangible improvements for ACT women resulting from the women's action plan. Women's membership of government boards and committees has increased from 40 per cent in June 1998 to 46 per cent in August 2001. I note that comments have been made recently to the effect that the plan to increase women's membership of boards and committees has been dropped or suspended. Of course, that is not the case. As members can see, that target of having women on 50 per cent of boards and committees has been taken seriously, and it is one that has been largely achieved under this government.

Forty-six per cent is the highest percentage of female participation on boards and committees in Australia. The national average is 29 per cent, and the second highest of all states and territories is 33 per cent, in New South Wales and Tasmania.

The lack of non-crisis counselling services for women on low incomes has been met by providing funding for general counselling services for women: $200,000 in 2001-02, $300,000 in 2002-03, $400,000 in 2003-04, and $410,000 in 2004-05.

Many women were unwilling to report sexual assault, because they did not want to be examined by male doctors. The new integrated sexual assault service allows for a guaranteed choice of gender of doctor available for victims, 24 hours a day, seven days a week. This service is funded at $300,000 in 2001-02, then indexed over the following three years.

The focus on women and girls in vocational education and training through the strategy, "Reaching their potential—women and girls in vocational education and training in the ACT 2001-2000", has resulted in an additional 50 places at the Canberra Institute of Technology so that women from culturally and linguistically diverse backgrounds may participate in learning options for women. This is a program targeting women returning to the work force.

A collaborative process across government has worked well in ensuring that we have made progress in addressing women's issues that were identified through a comprehensive consultation process. Implementation of this whole-of-government initiative is being coordinated through the women's policy unit in my department. Each government agency took responsibility for implementing the actions relevant to its portfolio area.

While much was achieved with existing resources, new resources were allocated to a number of key initiatives. New funding has been allocated to provide general counselling services for women, and improved access to female doctors for victims of sexual assault. These initiatives aim to expand women's access to, and choice of, services to improve their wellbeing. Disadvantaged older women's access to information technology is being improved through a number of digital divide initiatives. Older women being discharged from hospital will also benefit from an increase in transition services.

A number of initiatives are being implemented to improve women's representation on boards and committees, such as the ACT women's register. Currently ACT women have the highest level of representation on government boards and committees across Australia, at 46 per cent.

The family violence intervention program is an integrated criminal justice approach, which has received additional funding to help reduce the incidence of domestic violence in the ACT.

These activities are a small example of the achievements for women that are reported in the final implementation report. The ACT Women's Consultative Council has had a key role in overseeing the implementation of the plan. In performing this role, the council acts as a link between women in the ACT community and the government. The achievements listed in the final implementation report have been made in a relatively short time frame, and there remain some challenges ahead.

The collaborative work of all government agencies, and the contribution of the Women's Consultative Council, will ensure that these challenges are addressed. The women's action plan will be reviewed and updated, in partnership with women in the community, taking account of outstanding and emerging issues. This will ensure that the government responds to the diversity of women's needs, and continues to contribute to improving the status of women in the ACT in the next three to five years. I commend the final implementation report of the ACT women's action plan to the Assembly as a demonstration of the government's commitment to, and progress in, improving the status of women in this territory.

Review of Firearms Act 1996
Paper and statement by minister

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

Review of the *Firearms Act 1996.*

I ask for leave to make a statement.

Leave granted.

MR SMYTH: Mr Speaker, I present the report of the review of the Firearms Act 1996. Section 128 of the Firearms Act requires that the act be reviewed to determine whether its policy objectives remain valid, and its terms continue to be appropriate to the securing of those objectives. The terms of the act call for the report of this review to be tabled by four years after the commencement of the act. As the act commenced on 17 May 1997, the four-year period expired on May 17 this year. I have already written to the chair of the Justice and Community Safety Committee expressing my regret that it has not been possible to meet the deadline.

However, Mr Speaker, today I am pleased to present this report, which concludes that the policy objectives of the act remain valid, and that the terms of the act remain appropriate to the meeting of those objectives. Mr Speaker, the report notes that, following a call for submissions from interested members of the community, no substantive concerns were raised about the policy underlying the act or the terms of the act itself.

A range of suggestions for technical changes to the act has been made, largely by the Firearms Consultative Committee, and the government has indicated its agreement to most of these suggestions. As the report notes, quite apart from the formal legislative requirements for a review of the act, there has been an ongoing process of review since the act commenced. The government has made the appropriate amendments or regulations to ensure that the act continues to maximise community safety, while recognising the legitimate activities of groups like sporting shooters and those whose employment requires them to carry a firearm.

As the report notes, the ACT government has been a strong supporter of the nationally agreed principles that were endorsed by police ministers following the Port Arthur massacre. The police minister at that time is now the Chief Minister, and he led that action nationally, Mr Speaker. The ACT government continues to vigorously maintain the principled stance it has taken on the question of firearms control, and believes that this report reflects that approach.

Planning and Urban Services—Standing Committee
Report No 71 of 2001—government response

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.35): For the information of members, I present the following paper:

> Planning and Urban Services—Standing Committee—Report No 71—Proposed development at South Bruce section 21, blocks 1, 3 and 4 and traffic arrangements on Haydon Drive *(presented 13 June 2001)*—Government response, dated 2001.

I move:

> That the Assembly takes note of the paper.

I wish to present the government's response to report No 71 of the Standing Committee on Planning and Urban Services to the Legislative Assembly. Report No 71 relates to proposed developments at south Bruce, section 21, blocks 1, 3 and 4, and traffic arrangements on Haydon Drive.

Report No 71 arose from concerns raised by residents of south Bruce with the Standing Committee on Planning and Urban Services about the possible development of block 3, section 1, and blocks 1 and 4, section 4, of Bruce. Block 3 was identified on the government's residential land release program for the year 2001-2002. Blocks 1 and 4 are community facility land, and the government wished to initiate planning studies aimed at developing these two blocks for older persons' accommodation.

After being advised that the committee proposed to look into the concerns of the south Bruce residents, I asked that all studies be deferred, pending the committee's report. The committee's report follows careful consideration of submissions to it from the south Bruce residents, officers from my department, and representatives from the Little Company of Mary.

The committee's report recommends that block 3, section 21, not be developed for residential purposes. It highlights the value of the land to south Bruce residents, who suggested that the land use policy for that area be changed to nature park. The government recognises the interests of the residents in the development of this area over the years, and accepts the committee's recommendation.

The government welcomes the committee's recommendations about the development of older persons' accommodation on blocks 1 and 4, and proposes to proceed with the planning studies as a matter of priority. These studies will, in part, look at the preservation of the northern part of block 4 for environmental purposes. The committee believes this area has environmental significance, and this needs to be properly considered.

These studies will also look at the intersection of Haydon Drive and Jaeger Circuit, which was the subject of the committee's third recommendation. With the development of older persons' accommodation on blocks 1 and 4, access onto Haydon Drive must be

addressed, and this should be extended to improvements to the existing traffic arrangements.

Once these studies have been resolved, the final boundary for block 3 will be determined. The study will look at uses on either side of a realigned road, and it may be possible to utilise some small area of this block for aged residential purposes. Mr Speaker, the government thanks the committee for its report on this matter, and I now take the opportunity to table the government's response.

Question resolved in the affirmative.

Report No 73 of 2001—government response

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.36): For the information of members, I present the following paper:

> Planning and Urban Services—Standing Committee—Report No 73—The proposed Amaroo Community Precinct *(presented 13 June 2001)*—Government response, dated 2001.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, it is with pleasure that I table, today, the government's response to the Standing Committee on Planning and Urban Services inquiry into Amaroo community precinct. The committee made several recommendations regarding the Amaroo community precinct. The key recommendation of the committee was that the Amaroo community precinct proceed.

The Amaroo community precinct provides Amaroo residents, and the wider Gungahlin community, with timely community, educational and recreational facilities. The Amaroo community precinct will contain a Catholic primary school, a government preschool and primary and high schools, associated ovals, and the neighbouring Amaroo shopping centre. The Catholic Education Office intends to open its primary school in 2002. The government preschool will open in 2003, and the government primary and high schools in the years to follow.

Prior to the opening of the high school, Horse Park Drive will be opened. Horse Park Drive will be a major arterial road providing access to the precinct, as well as an alternate access to northern Amaroo. The Amaroo community precinct will provide essential facilities for the residents of Amaroo, and for the future residents of Gungahlin, including the yet to be developed suburbs of Bonner, Forde, Jacka, and Moncrieff.

The government generally supports the committee's recommendations and is keen to implement them. I am also taking this opportunity to reassure the Assembly that planning for northern Amaroo has been undertaken in an integrated manner, with consideration for the needs of current and future communities. This includes providing places for people to live, go to school, play, shop and work. The Department of Urban

Services has been working closely with community members to adapt and amend the Amaroo community precinct's design in response to issues concerning traffic management, noise and visual amenity.

The government will continue to work closely with the Gungahlin community. This is an integrated part of the forward planning for Gungahlin. Mr Speaker, the government will now proceed with the timely delivery of this important community asset.

Question resolved in the affirmative.

Finance and Public Administration—Standing Committee
Statement by Chairman

MR QUINLAN: I ask for leave to make a statement, pursuant to standing order 246A, regarding the Auditor-General's Report No 5, 2001, *The administration of payroll tax*.

Leave granted.

MR QUINLAN: The Auditor-General's Report No 5, entitled *The administration of payroll tax*, was presented to the Legislative Assembly on 23 August 2001. As members would be aware, Auditor-General's reports are referred to the Standing Committee on Finance and Public Administration, incorporating the public accounts committee, under its resolution of appointment.

The committee, understandably, has not had the opportunity to examine the detailed report, although it has had a meeting since the presentation of the report. Nonetheless, the committee has briefly discussed the Auditor's findings in relation to the administration of payroll tax, and agrees that they are disturbing and worth drawing to the attention of the Assembly.

The committee recommends that the Auditor-General's report be further considered by its successor in the next Assembly, and that a submission be made from government outlining what actions it has taken since the presentation of the report to the Assembly. The committee hopes, given this recommendation, that the relevant public service officers will actively pursue this matter in the interim.

TransACT
Ministerial statement

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (3.42): Mr Speaker, I ask for leave to make a statement to the Assembly regarding TransACT Communications Pty Ltd.

Leave granted.

MR HUMPHRIES: I thought it might be. Mr Speaker, at the request of the Standing Committee on Finance and Public Administration, I and various officials appeared before that committee on 27 July 2001 and responded to the committee's question in relation to TransACT Communications Pty Ltd. The committee has asked me to deliver a statement advising the Assembly of the current position of TransACT, shareholders'

assessment of TransACT's commercial viability, and shareholders' predictions as to the long-term viability of the venture.

Mr Speaker, it is important to understand that Actew currently has approximately a 35 per cent shareholding in TransACT, with the majority, 65 per cent, being owned and funded by private companies and individuals. TransACT is also in a highly competitive market, so sensitive commercial information disclosed in this place could be of value to TransACT's competitors, and could therefore seriously jeopardise the company's ability to compete on a level playing field.

The history of the TransACT project has been outlined in the Assembly on several occasions, and I will summarise it briefly now. Actew began investigating the use of its infrastructure to support a broadband fibre-optic network for the ACT after the national capital was excluded from the analogue rollout of cable by both Telstra and Optus. The government supported this project, as it was seen as a necessity for Canberra to provide real opportunities for business, education, health, innovation and private use, and to ensure that we were not left behind the rest of Australia in the area of the latest technologies.

In 1998, the board of Actew Corporation sought approval from shareholders to conduct a trial of broadband fibre technology in Aranda, ACT. The work leading up to the trial and on various independent financial and technological reports resulted in expenditure of some $6 million.

Following the overwhelming success of the Aranda trial, Actew again approached the shareholders and sought agreement to establish TransACT as a commercial business. This request was supported by:

- a business case and independent technological and financial reports, which indicated that the concept was viable;
- a strong proposition that there would be major benefits for Canberra, as it continued to promote high technology industry as one way of offsetting major cutbacks in Commonwealth spending and employment in Canberra;
- a proposition that Telstra and others had basically ignored Canberra in their national rollout of new technology;
- the need to involve other investors to offset some of the risks and to gain access to specialist expertise, equipment and vendor finance;
- the importance of Actew holding at least 25 per cent of shares, so that it could ensure that any special resolution by TransACT directors was in the best interests of the Canberra community; and
- a possibility, at least, that the Actew Corporation could choose to withdraw some or all of its investment within two years, when it was expected that the timing could be conducive to some sort of public float, possibly giving some form of preference to the citizens of Canberra.

The shareholders accepted this advice from the Actew Corporation board. Actew was joined by the Telecom Venture Group and, in February 2000, TransACT Communications was established. In May 2000, a series of other investors, including AGL and Marconi, made further investments in the company.

While all shareholders in TransACT are actively seeking a return on their investment, Actew and the ACT government have also seen the company as a long-term investment in the social and business development of Canberra. Canberra has more than 800 businesses involved directly in the information technology industry. It has more than double the national percentage of people working in the industry, many of those being in small businesses, often working from an office in their home. With access to a sophisticated broadband network, many of these businesses will be able to continue their operations in the ACT in the future, and compete effectively with their counterparts interstate.

Canberra's schools and tertiary institutions will be able to connect to a territory-wide intranet, providing cost savings and new accessibility for teachers, students, administrators and parents. As long as there is a monopoly in this market, we will not receive the same services as other capital cities do. The ACT will always be treated as a backwater, unless we have a company prepared to take on incumbent firms and be innovative in the services it provides. This is about ensuring the long-term future of Canberra and providing a quality of life that is second to none in the nation.

When TransACT began, its directors did not expect the road to be totally smooth. As with any new venture, there was always going to be an element of uncertainty. However, the downturn in the telecommunications industry internationally, and the problems caused by that downturn—which quite clearly TransACT does not have the capacity to influence—have nonetheless affected TransACT. In particular, the inability of Nortel to continue as a supplier of technology and related vendor finance, following their major losses overseas, increased the technical complexity of the TransACT rollout and complicated the financing of working capital.

Staff have been working exceptionally long hours to provide solutions and ensure the long-term future of the project, and I am advised that most of the adverse effects are now behind them, and that they are ready to begin connecting customers again.

International experts believe that the slowdown in the telecommunications industry is only temporary and, with major companies restructuring themselves to take advantage of the increased demand for new technology, it is expected the flat growth will only last around 12 months. One bright spot in the world market is the Asia-Pacific region and, in particular, Australia. A report by respected industry analyst Paul Budde, released only in the last few weeks, and paraphrased by industry magazine *Communications Day*, states:

> Australia's telecommunications carriers could be saved by the broadband boom, which will enjoy spectacular growth in the second half of this decade and become a $90 billion market by 2010.

The ACT represents around 2 per cent of the telecommunications use in Australia, with that figure growing. If TransACT were to pick up only a quarter of that potential Australian market, which is much less than market research indicates, the company could take around half a billion dollars from that market in less than a decade. That would be an excellent return on investment to Actew, and consequently to the ACT government. Those figures do not include the other areas that TransACT is involved in, such as telephone and video services.

However, for TransACT to be a part of that spectacular growth, we must all ensure its future is not put at risk in the short term. This is not a project that will make millions overnight: it is a long-term investment in the future of this city. TransACT shareholders have shown their confidence in the project by their commitments to provide extra funding to ensure its future. In the current economic climate for overseas telecommunications companies, this is a major vote of confidence, both in TransACT and in the ACT.

TransACT is not the only company of its type to need further funds to deploy its business strategy. For example, Austar United announced on 15 August that it would need to raise up to $150 million extra to continue its current expansion.

In June and July of this year, TransACT shareholders, including its national and international investors, agreed to provide extra funding for the continuation of the Canberra rollout. Initially, TransACT's shareholders assessed their investment against the last call for funds on their original shareholdings. Against this assessment, Telecom Venture Group (TVG) decided to forgo increasing its original shareholding, but instead is participating in the preference share issue. Actew decided to take up the available preference shares.

With Actew agreeing to participate in the preference share issue to the extent of $20 million, the total preference share issue will be up to $50 million, with two other shareholders, TVG and AGL, contributing up to $15 million each. Currently, Actew has invested $11 million in start-up assets, and $28.5 million in cash contributions, giving a total of $39.5 million. For this investment, Actew has received 45.2 million shares in the company. Following the board meetings in June and July, Actew initially committed a further $20 million in cash contributions for equity to be provided progressively over the coming year. All other investors also committed additional investment by way of preference shares.

Following this funding round, the breakdown of equity in TransACT will be Telecom Venture Group, 26.9 per cent; Actew, 35.6 per cent; Australian Gas Light, 22.8 per cent; Marconi, 11.1 per cent; and others 3.6 per cent.

Mr Speaker, I have been asked several times about the cost of the TransACT rollout. I am aware that the chairman of TransACT has indicated that it could be of the order of $200 million, but this is clearly a very complex issue on which to offer an opinion. Any estimate of the probable cost of the project would depend on a large and uncertain number of factors, including the extent of the rollout, the timing of the rollout, the take-up rate as it goes past potential customers, and assumptions about the customer yield profile.

Variations in any of these parameters, the value of the Australian dollar, or the effect of competitive responses on potential customers, would see the cost of the rollout change. For example, if fewer households were to take up the service, the budgeted connection expenditure would reduce.

I am advised that the total capital funding commitment agreed between TransACT's shareholders is in the order of $230 million. This commitment includes share capital, vendor finance and operational income, and goes to the total cost of the project under TransACT's business plan.

I am also advised that the directors and management of TransACT have commenced a review of its business plan, focusing on:

- continuing strong community and business support for TransACT, and broadband technology generally;
- increasing the current rate of connections to individual houses and businesses, so that the actual rollout and associated costs align more closely with TransACT's ability to connect; and
- a number of other initiatives designed to improve profitability and revenue, and take advantage of the technology made available by the network.

Mr Temporary Deputy Speaker, these strategies and the review of the business plan will, in turn, determine whether or when TransACT requires further investment by existing or new investors. They will, in turn, determine the Actew Corporation's ongoing position. I have been unequivocally advised by Actew Corporation that TransACT is:

- being very carefully and sensibly managed,
- in a position where it has sufficient committed funding to carry forward its plans well into next year, and
- working to plan on customer connections.

To quote Actew chairman, Jim Service:

> on the currently available information . . . the TransACT network will be technically superior and successful and . . . it will become a financially viable business—provided that it continues to receive adequate financial support.

The TransACT initiative is ambitious, Mr Temporary Deputy Speaker, and has attendant business risks that are borne by all shareholders, including the ACT government through Actew Corporation. We must proceed prudently. We have done so at all stages of the development of this initiative. However, it is important to note that its value to Canberra is of inestimable worth, and requires our continuing encouragement and support.

I present the following paper:

> TransACT—Ministerial statement, 29 August 2001.

I move:

> That the Assembly takes note of the paper.

MR QUINLAN (3.55): I am reassured by some of the content of the paper that the Chief Minister has delivered. I am concerned though that when the public accounts committee, and I as chairman of the public accounts committee, have acted, I think, in as responsible a manner as is possible in order to balance the commercial interests of TransACT versus the public interest in terms of large amounts of public funds being expended, we have sort of got headed towards this political game of polarisation that is played.

As an individual within the ALP, I do not know enough about technology to embrace this and shout from the rooftops that it will be a grand saviour or grand fillip to Canberra, but from what I have seen it sounds good. From what I have seen written by commentators who do purport to know a fair bit more than I do, it sounds good. We would certainly like to see the ACT continue to implement good ideas, but the implementation of good ideas is no licence to spend unlimited public funds without reference to the parliament.

I think the public accounts committee has acted appropriately. I think that virtually all the members in this Assembly have acted appropriately, other than, I think, the Chief Minister who put a few words in my mouth yesterday that I did not utter. I thought you were going to come back and—

Mr Humphries: They were very similar words.

MR QUINLAN: I thought you were going to bash me up with *Hansard* yesterday or today, Mr Humphries.

Mr Humphries: I might yet do so.

Mr Moore: It comes out electronically and it makes it hard.

MR QUINLAN: I have a copy of it as of yesterday. Do you want me to read it to you?

Mr Humphries: If you are ashamed of it, yes, by all means.

MR QUINLAN: And it was available yesterday. I do want to make clear and to place on the record that, within a much higher degree of qualification, the ALP does support TransACT. I do not have the benefit of a presentation of a business case, and I am sure that members of government should have, or would have, and I do not have the intimate technical understanding to know for certain that this is going to deliver all that it promises. I do not have sufficient knowledge of the market to know that it is going to achieve the penetration in the market that is necessary to reach that critical mass that is necessary for its viability.

But I do defend, first of all, the position of the public accounts committee. In fact the public accounts committee was scrupulous in what it went though in terms of what we thought at the beginning was the scotching of ill-founded rumours. It turns out that as early as June there had been advice that there were considerable amounts of additional funding flowing into TransACT without the knowledge of this Assembly or without any attempt by government to advise this Assembly. We now cannot be confident that if it was not for the fact that the public accounts committee performed its duty we would still not know to this day that that much additional funds had flowed into TransACT. We would not know that there is still, on current estimates, something in the order of $60 million worth of capital funding yet to be found to complete the installation of the project as it is currently planned.

Yes, I accept what the Chief Minister has said; that the cost will vary. I think he made the point, which I thought was a very generous point to make, that if the penetration is not achieved there would be some savings in the capital costs. Of course, there are some other dire consequences of not achieving a reasonable rate of penetration into the market.

So, Mr Temporary Deputy Speaker, I want to make it quite clear that the ALP supports TransACT to date, as I said, with considerable qualification. This exercise unfortunately has some of the hallmarks of the Bruce Stadium affair where it took leverage to get the facts. When the facts came out those who elicited the facts were accused of not wanting the Olympic Games, of not wanting Bruce Stadium, of being disloyal to Canberra. I think I gave to Mrs Carnell at that stage the Samuel Johnson quote—that patriotism is the last refuge of a scoundrel. I see that occurring again to some extent. If we challenge the way you have gone about TransACT there is an immediate leap: "You don't like TransACT, you don't like Canberra, and you probably eat babies." That is the natural progression of logic that Mr Humphries tries to put across in this place. I think that is unfortunate.

I think it has been appropriate that the Assembly receive this statement. I am quite happy to have received it, and I am quite proud of the role that the public accounts committee has taken, and the scrupulous way it has gone about its job.

Question resolved in the affirmative.

Personal explanations

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Temporary Deputy Speaker, I seek leave to make a statement under standing order 46.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Proceed

MR HUMPHRIES: In the course of question time yesterday, Mr Quinlan, in his capacity as chair in the Standing Committee on Finance and Public Administration, was asked a couple of questions. One of them was from Mr Hargreaves. In the course of the answer to that question it was implied that I had misled the Assembly by not answering members' questions about the cost of the TransACT rollout; that I knew the precise cost because I was present during the in-camera committee hearing on this subject. The first question from Mr Hargreaves was as follows:

> Can the chairman of the public accounts committee tell the Assembly whether he knows the expected total cost of the rollout and the source of that information?

Mr Quinlan answered that the committee had been given a more precise figure than $200 million and that it was considerably more than $200 million. Mr Hargreaves went on to ask a supplementary question:

> … can the chairman of the committee tell the Assembly whether the Chief Minister was present at the hearing when the estimate was provided, and was there sufficient discussion on the particular topic to ensure that everyone present was clear on the figure?

Mr Quinlan answered that I, the Chief Minister, was present at that point of the hearing. Although Mr Quinlan was correct in saying that I was present, he was wrong about what was discussed while I was there.

Since I was present on that occasion, I was provided with a transcript and asked to verify the words. From my examination of the transcript, at no stage did I or anyone else present at that hearing assert or affirm that the total cost of the TransACT rollout was any figure higher than $200 million, certainly not considerably higher than $200 million. The figure that was given to the committee, $233 million, which is obviously the figure Mr Quinlan is referring to, is an estimate of the total overall capital cost of the TransACT venture, not the specific rollout cost. I note at one point of the committee transcript that I even clarified this point for Mr Quinlan by stating that the figure of $233 million was the worth of the enterprise TransACT represents.

Mr Moore: Wasn't he listening?

MR HUMPHRIES: He was obviously not listening at the time. There was no mention of the rollout cost. The discussion was clearly about the total capital cost. Therefore, the answers which I gave to the Assembly this week and last week that I understand the rollout costs of TransACT to be approximately $200 million are correct. Until the TransACT rollout spreads more widely through the Canberra community, this estimate will remain.

I also want to confirm the effect of that advice by tabling a letter which I received today from Mr Perkins, the chief executive of Actew Corporation.

Mr Quinlan: Spontaneously sent.

MR HUMPHRIES: No. I sought this advice to clarify what it was Mr Quinlan was trying to say, to see whether in fact I had misunderstood what was being told to the committee while Mr Quinlan was present and chairing the meeting. I quote the letter:

> Dear Chief Minister
>
> This is to confirm my verbal advice that the estimated cost of TransACT infrastructure roll-out is of the order of $200 million. As referred to by Chairman, Jim Service, in the local media, the business plan is under review by the TransACT Board and there may well be variations up or down depending on any number of factors, including those mentioned in your draft statement.

I present the following paper:

> TransACT infrastructure rollout—Copy of letter from Paul J Perkins, Chief Executive, ACTEW Corporation, to Mr Gary Humphries, Chief Minister, dated 29 August 2001.

Suggestions that I had in effect known that there was a rollout figure of $230 million and refused to answer a question to that effect or pretend that I did not know the answer to that effect are misleading allegations. In fact, the committee was properly advised at the time of the total capital cost of the venture, not the rollout cost. I would advise

Mr Quinlan to check the transcript of his committee hearing before he again makes such allegations.

I also note and am pleased to see that Mr Quinlan withdrew to some extent from his description of TransACT yesterday. He did not say it was a bad investment; he used a different phrase. I will check that phrase. I do not have it in front of me. The phrase was quite unprovoked—

Mr Quinlan: I will read it to you if you like.

MR HUMPHRIES: Fine. I look forward to you doing that. I am pleased to see that that tone is to some extent being withdrawn from.

Mr Quinlan: No.

MR HUMPHRIES: It is not. In that case, you are on the record as having said that about TransACT. I note those comments, and I have great regret about those comments.

MR QUINLAN: Unfortunately, Mr Temporary Deputy Speaker, I have to ask for leave to make a personal explanation under section 46.

MR TEMPORARY DEPUTY SPEAKER: Proceed.

MR QUINLAN: First of all, I need to clarify a point. Am I able to read into *Hansard* the *Hansard* of the committee hearing? The hearing was in camera but the proceedings have been approved for publication. The period for editing has expired, but because of practical difficulty we have been unable to produce the final edited copy. Am I able to read that into *Hansard* now?

MR TEMPORARY DEPUTY SPEAKER: If it is material to your personal explanation you may well consider tabling it, but if you wish to make a statement in respect of the matter that was before your committee—

MR QUINLAN: This will be a public document come Friday.

MR TEMPORARY DEPUTY SPEAKER: No, that is not what I am referring to, Mr Quinlan. You rose under standing order 46 to make a personal explanation, not a statement. So if you wish to incorporate—

MR QUINLAN: I seek leave of the Assembly to read a couple of excerpts from the draft *Hansard*—

MR TEMPORARY DEPUTY SPEAKER: Is leave granted?

Mr Humphries: I would like to ask for clarification of what is occurring here. I know there are usually strict rules about the use of draft documents. I have a draft in front of me which I did not quote from in my remarks under standing order 46, because I understood that the document could not be referred to until a final edited version had been—

MR QUINLAN: It did not stop you when you manufactured that business a fortnight ago with Mrs Burke.

Mr Humphries: I did not manufacture anything. I did not quote from the text. I understand that there is a convention about not doing that. Mr Temporary Deputy Speaker, you might take advice about whether it is acceptable to quote from the draft *Hansard*. If it is acceptable under the standing orders, I am happy for that to occur.

MR TEMPORARY DEPUTY SPEAKER: I understand from an interjection that Mr Quinlan is withdrawing his request for leave to make a personal explanation under standing order 46 and now wishes to seek leave to read extracts from *Hansard*. If leave is granted, Chief Minister, then I am in the hands of the house.

Mr Humphries: As long as I can do the same thing, that is fine.

MR TEMPORARY DEPUTY SPEAKER: Are you still seeking leave, Mr Quinlan?

MR QUINLAN: Yes. What I am trying to clear up is that we had the numbers on the table. Mr Humphries has said that the capital cost is going to be $230 million. Then we had some semantic—

MR TEMPORARY DEPUTY SPEAKER: Mr Quinlan, resume your seat. You are debating the issue. As I understand it, you wish to seek leave to make a statement in respect of *Hansard*.

MR QUINLAN: Yes.

Leave granted.

MR QUINLAN: I heard the Chief Minister's explanation. It is all deja vu in relation to this and Bruce. There is now a difference between rollout cost and capital cost. I do not see the importance of that. If it is going to cost $233 million, it is going to cost $233 million. It seems logical to me. If I have permission, I will read from the draft *Hansard*:

> THE CHAIRMAN: Because I understood, initially, that the overall capital cost was going to be 150 million, right, as opposed to 173.
>
> Mr Perkins: Well, the cost is more than 173. There's no question that the cost of investment is much larger now than in the original investment plan. I haven't got the exact figures in front of me but even with this investment there is still, out in the next year, there's still a shortfall of something in the order of 60 million. Now, that has to be addressed by definition. That can be addressed through TransACT in terms of cost-cutting, additional revenue or additional shareholding.
>
> THE CHAIRMAN: So it's now worth $233 million, that's what it's going to cost?
>
> Mr Perkins: Something of that order, yes.

Mr Humphries: Where is the word "rollout" there.

MR QUINLAN: What is "rollout"? I have said "total capital cost". I have talked about total capital cost. Do we have to enter into semantics as to "rollout"? I am talking about capital cost. Rollout is a part. I am looking at the whole cost.

Mr Humphries: You asked me about rollout earlier and last week. It was about rollout, not—

MR TEMPORARY DEPUTY SPEAKER: Order, Chief Minister! Mr Quinlan has the floor.

MR QUINLAN: I think the Chief Minister is dissembling in his typical fashion. Here it is in black and white—the total capital cost.

Mr Humphries: Mr Temporary Deputy Speaker, I ask that that be withdrawn.

MR TEMPORARY DEPUTY SPEAKER: Mr Quinlan, address your remarks to the chair.

MR QUINLAN: "Attempting to confuse the issue"—is that all right? I know it is offensive but it might be accurate.

MR TEMPORARY DEPUTY SPEAKER: Mr Quinlan, come to order. Address your remarks to the chair.

MR QUINLAN: The clear point that needs to be made, Mr Temporary Deputy Speaker, is that I asked, "What is the total capital cost?" The response was $233 million. If somebody by sheer accident used the term "rollout" rather than "total capital cost" and Mr Humphries then said, "I know that that is a subset of the total cost that happens to be $200 million and I would like to check that," then quite obviously you would have known when you got the question, Mr Humphries, that you were being asked, "What is TransACT going to cost, and what money needs to be raised?"

MR TEMPORARY DEPUTY SPEAKER: Mr Quinlan, do not encourage debate across the chamber.

MR QUINLAN: It does not matter. It does not exist. It was not rollout; it was some nonsense. I think the point has been made.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Temporary Deputy Speaker, I need to clarify this matter. It is a fairly serious assertion. I seek leave to make a statement.

Leave granted.

MR HUMPHRIES: We appear to be now quoting fairly freely from the draft *Hansard*, so I will do so as well. The comments that were made about TransACT in the hearing on 27 July relate to the total capital cost of the TransACT venture. I refer to page 8 of the transcript. In the preceding seven pages, the word "rollout" is used only once, on page 5, almost as an aside, by Mr Perkins. The rest of the discussion is quite specifically about total capital cost. I quote from the previous page:

> THE CHAIRMAN: Because I understood, initially, that the overall capital cost was going to be 150 million, right, as opposed to 173.

And from there it went on. For the information of Mr Quinlan, who does not appear to be interested any longer, there are many things that TransACT is doing which are not directly involved with the rollout of their broadband cables. For example, it may surprise members to know that Mrs Carnell, the former Chief Minister, is not out there in Kambah at the moment digging ditches and laying cable along ditches. People who are organising finance for the deal are not involved directly in the rollout. They are involved in other aspects of the venture.

Mr Berry: What about the building to put them in?

MR TEMPORARY DEPUTY SPEAKER: Order! The manager of opposition business will come to order. You do not need to come into this argument. We are trying to move through the business.

Mr Berry: I take a point of order, Mr Temporary Deputy Speaker. The next time the Chief Minister sits over there interjecting on people on this side, I hope you apply the same rules to him.

MR TEMPORARY DEPUTY SPEAKER: There is no point of order.

MR HUMPHRIES: The question was asked—

Mr Quinlan: I have heard some Gary-ing, but this is getting bad.

MR HUMPHRIES: Do not rely on my word for it, Mr Quinlan. Take the word—

MR TEMPORARY DEPUTY SPEAKER: Order, Chief Minister! Address the chair, if you would.

MR HUMPHRIES: Mr Temporary Deputy Speaker, I am being interjected upon.

MR TEMPORARY DEPUTY SPEAKER: Address the chair.

MR HUMPHRIES: I will not respond to any interjections. I do not expect members to take my word for what the total cost of the rollout is. I ask that the word of Mr Perkins be relied upon in this matter. You people asked for the total cost of the TransACT venture. TransACT is not involved in just rolling out cable. It is doing other things as well.

When it was asserted in this place that I had misled people by suggesting that the total cost of TransACT's rollout was only $200 million, when in fact it was $230 million, or—to quote Mr Quinlan from yesterday—considerably higher than $200 million, that is not the case. I have never asserted that the TransACT rollout was any more than $230 million, because it was not—at least, it is not at this stage, on the best estimates of TransACT.

Mr Berry: Not at this stage, but it will be.

MR HUMPHRIES: That is right. I have made that very clear as well.

MR TEMPORARY DEPUTY SPEAKER: Mr Berry, you made a point earlier about not interjecting. I thought you indicated you did not want to interject. Come to order.

MR HUMPHRIES: I made it perfectly clear that those estimates may change over time. TransACT has been at great pains to point that out. That is the situation The total cost of the rollout is a matter of saying, "What sort of take-up rate is this venture going to have over the next three years?" None of us know that for sure, but at this stage their closest estimate is $200 million. The assertions that were made yesterday that I had misled the Assembly in some way, for that reason, are false.

Multicultural community groups
Discussion of matter of public importance

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Mr Speaker has received a letter from Mrs Burke proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

> The ACT government's support for Canberra's multicultural community groups following recent racially based incidents in the ACT.

MRS BURKE (4.19): All good things come to she that waits, and this is good. I have raised this matter of public importance today because the positive impacts and influences of multiculturalism in the ACT have affected, and will continue to affect, our whole community for the better. It is critical to the ongoing success of the ACT that we recognise these benefits and embrace them to maximise ongoing future benefits.

I would like to acknowledge the traditional owners of the land on which meet today. With the exception of the Aboriginal custodians of this land, we are all migrants in the ACT.

British colonisation in 1788 was followed by the construction of a new nation based upon immigration. We know that Australia has a history of receiving settlers from various parts of the world. These settlers have brought with them skills, experiences and abilities that we as a nation have successfully blended, grown and evolved, often with a distinctly Australian flavour. I include my family and me, of course.

People have come to this land for varying reasons. A pioneer and colonial spirit characterised much of the raison d'etre of the earliest settlers, and perhaps even of those who did not choose to come.

The first large group of non-European workers came from China, and later workers came from the Pacific islands. Anti-Asian campaigns led to the Immigration Restriction Act 1901, the white Australia policy.

Australia recognised its need to grow, and the then government adopted the catch-cry of "populate or perish". This policy position took advantage of the instability and insecurity in Europe. Australia offered safer and more secure homes for many displaced Europeans.

In our region many of these workers came to work on the vast Snowy Mountain scheme in the 1950s and 1960s. I remember learning much about that in a classroom in England. Awe inspired by it I was indeed. Their feats are now part of our national folklore. Our greatest engineering project was completed only because we had hardworking people who were determined to take advantage of the opportunity afforded them in their new homeland. The new settlers and the country greatly benefited from this and other collaborations like it.

In recent times other factors have driven the reasons for immigration. Most people now arrive from Asia, the Middle East, Latin America and New Zealand. Part of our national identity is that we are a nation of immigrants. The Australian population has increased from 7.5 million in 1947 to over 19 million people today. At least half of this growth has been due to immigration. Over 40 per cent of our population either were born overseas or have at least one parent born overseas.

The consequence of immigration, especially since southern Europeans started to arrive after the war, has been an increase in ethnic diversity, a move away from a narrow mono-cultural identity based on Britain to a new concept based on multiculturalism. Until the 1970s, emphasis was on assimilation—making everybody look, sound and act the same. This was a very arrogant and limiting approach.

So much of the modern research into effective working teams emphasises the need to include a multiplicity of views and opinions. Research shows that this approach gives the best results, as a team is able to draw on the strengths, knowledge and skills of individual members. We in Australia have been very successful in drawing on the strengths of the cultures that make up modern Australia, and today we celebrate our cultural diversity.

Doug Floyd summed this up perfectly: "You don't get harmony when everyone sings the same note." This is the essence of what multiculturalism is about: ensuring that everyone has the right and the opportunity to sing their own note, regardless of their cultural background, and we benefit from this by getting all the best bits. And what a song of harmony we have here in the ACT. The ACT is, and will remain, a culturally diverse society, and multiculturalism is the best way to manage this cultural diversity.

This government has supported this multiculturalism and celebrates its benefits with the rest of the community of the ACT. The government has shown leadership in using the benefits that multiculturalism offers on building on them.

There are over 160 multicultural community groups with which the ACT Office of Multicultural and Community Affairs in the Chief Minister's Department engages. These include ethnic clubs, schools, churches, and cultural and social networks. These groups work in partnership with the government, community and business sectors to strengthen Canberra's social capital. They provide a focus to celebrate the differences that each group brings with it to the ACT. They provide social supports and an understanding of the mores and practices that enable people to remain different and still contribute to the greater good.

The whole community is richer when we share each other's cultures. This sharing leads to greater understanding and harmony and makes the Australian cultural, social and economic landscape stronger and more resilient. Margaret Mead, the eminent US anthropologist, said:

> As the traveler who has once been from home is wiser than he who has never left his own doorstep, so a knowledge of one culture should sharpen our own ability to scrutinise more steadily, to appreciate more lovingly, our own.

Mead's comment is very insightful. Australian society and culture are inextricably linked to those people who have come from all over the world to settle here during our short history.

Indeed, it is precisely because of those people who came to make Australia their home that we are who we are. Migrants brought winemaking skills that we here in the Canberra region are now using to build more opportunities to grow a viticulture industry. Migrants, with their understanding of different types of agriculture, enable Australia to boast some of the finest food production areas anywhere in the world. Migrants have helped Australia to utilise the bounty that is in the ground and extract it for the national benefit. And it was indeed migrants who brought with them understanding that we can all do things a little bit differently for the betterment of us all.

This government's commitment to multiculturalism is not new. In recent years we have worked cooperatively with the community to create programs that encourage Canberrans from multicultural backgrounds to maintain and express their cultural heritage and to participate fully in the social, economic and cultural life of the ACT. Thank heavens that we have embraced this, because we all benefit.

This government has done much over the past five years to open the doors and reap some of the benefits that are afforded to us by this diversity. The government has:

- established the ACT Office of Multicultural and Community Affairs and the ACT Human Rights Office;
- assisted long-term unemployed migrants with a work experience program which assists them in competing successfully in the job market;
- established and supported the ACT Chief Minister's Multicultural Consultative Council to ensure that the ACT government's policy and program development processes benefit from input from the multicultural community;
- addressed racism through such measures as the anti-racism contact officer network and anti-racism guidelines in schools to improve young people's awareness of multicultural issues; and
- created and funded the National Multicultural Festival as an opportunity for the whole community to celebrate our cultural diversity.

Only last week we saw the launch of the new Multicultural Business Chamber, which will provide further opportunities to reap the benefits that our diverse backgrounds offers us all.

Assembly members will be aware that the government has this year doubled the funds available to the community through the ACT multicultural grants program. Over recent years we have provided $150,000 to community groups for a wide range of projects that contribute to community development and cultural harmony. A further $100,000 in grants will be soon announced.

The framework for a multicultural Australian Capital Territory 2001-2002, launched in May 2001, is another significant example of the government's commitment to multiculturalism. It is a practical whole-of-government approach to multicultural affairs in the ACT and was developed as a result of extensive public consultation. It provides the framework to launch even more opportunities and benefits resulting from our diversity.

The vision for a multicultural ACT expressed in the framework for a multicultural Australian Capital Territory 2001-2005 is "to strengthen partnerships among government, business and community sectors so that cultural and linguistic diversity continues to be embraced, valued and utilised in the ACT". The vision is underpinned by three major goals: embracing cultural and linguistic diversity; valuing cultural and linguistic diversity; and utilising cultural and linguistic diversity.

The framework is not just another book on our shelves gathering dust. At the end of each financial year, government agencies will report in their departmental annual reports on the achievement of actions outlined in the framework and list actions to be undertaken in the following year.

I am glad to say that multiculturalism in alive and well in the ACT, but that does not mean that there is nothing more to be done. My colleague the Chief Minister and Minister for Community Affairs will speak about the ACT government's plans to enhance our commitment to multiculturalism, and in particular how we will address the issues of racism and intolerance. Our community can only benefit from recognising and celebrating the economic, social and cultural wealth that cultural diversity brings.

MR HARGREAVES (4.30): I thank Mrs Burke for raising this issue, although I had a funny feeling that her speech was just a preamble to a ministerial statement. It is sad to see the opportunity taken to trumpet the government's successes in this area, when members in this place would know that if there is one area on which we have an absolutely united view it is the importance of cultural diversity in our society. Our society is a polyglot. You only have to look around you to see the diversity. "Multiculturalism" is an awkward word to use, although I do not have a better one.

I want to talk about a number of issues. The first is the struggle of migrants who came here from another land as young people. I was only 2½ when I arrived here, but my memory of the early days is very vivid. For people like me who spent some time in migrant hostels as a kid, the thought of asylum seekers going through detention camps at the moment brings back memories even more vividly.

I can recall living at certain migrant hostels in Nissen huts, with no heating, no food-making facilities, no carpet and no television. Of course, television had not been invented when I got here. I can recall in one migrant hostel paying sixpence to watch television in the hall. There was a cafeteria area available for people to eat in. The

shower block had no privacy. There were flowerets on the wall and cement floors. I do not have any memory of grass in the camps. I was in a number of these camps. The only difference between where I was in Sydney and, say, Port Hedland is that the gates are locked at Port Hedland and other such camps.

The commonality of struggle that was shared between those people continues today. You only have to go into some of these cultural communities to understand that the common struggle bonds these people together. They need to be congratulated. They are trying to absorb themselves into a new land and often a new culture. They are trying to do so with quite a lot of adversity.

When we talk about multiculturalism, let us not forget the indigenous people of this land. We often forget them. When we think about multiculturalism, we talk about southern Europe, South America, Africa, China and Asia generally. We often forget that the indigenous people of this land have a culture different from that of the mainstream Anglo-Saxon people. It never ceases to amaze me the richness the indigenous people have in their languages, their practices, their religions and their dance. Sometimes I think we could learn a lesson from the gentle nature of these people.

Our oneness as Australians celebrates the uniqueness of each of the cultures which make up the Australian whole. We need to celebrate cultural diversities through the teaching of language and dance. We need to preserve them. I wonder whether or not the Attorney-General could treat us to some Polish music and dance. He probably could, but I would bet anything you like he could not do it as well as someone newly arrived from Poland.

You have to be careful. I know this from my contact with Filipino people and Lao people in my electorate. We run the risk that as kids grow in our Australian society they walk away from those things that make their culture unique. We need to make sure that we as a society resource the preservation of cultural differences. I congratulate the government for its approach through the office of multiculturalism to make sure there is at least some money around to do that. People like Nic Manikis do a pretty good job in trying to spread that resource around. It is obvious to me that those things will just die out. Like dinosaurs, they will disappear. We do not want to see that happen.

We are the envy of the world for the way we embrace our cultures. This is a polyglot society. We need to make sure that that continues. We have outlawed expressions like “wogs”, “wops” and “Pommy bastards”. That is a welcome thing. I spent the first 18 years of my life here fighting because people called me a Pommy bastard. It was probably somebody playing third grade for Collingwood. I fought with my fists against that. That should not happen now. Governments of all persuasions have worked very hard over recent years to prevent that. I think that is terrific.

Government programs to foster multiculturalism should not be trumpeted as successes. They should be givens. We should expect governments to do everything they can. We should highlight their failures and correct them, but we should not politicise the thing. It is a terrible thing for any government, opposition or crossbench to seek to make political mileage out of this issue. We should be working together on it. If we can put our guns on the table for five minutes and get together on this, we can show how well it can be done.

In a former life, when I was investigating changes to the ACT health system, which I was in charge of at the time, we tried to introduce a new model of health service with multidisciplinary teams. I am sure the Chief Minister will remember those days. We moved from the Gough Whitlam largesse, removed the God syndrome of doctors and empowered the health centres through multidisciplinary teams to deliver a service. That was a singular success in reaching out to the community and saying, "What you need is what you get."

I went around a couple of states, in particular South Australia and Victoria, to try to find out how they operated their health services. I was struck by the visit I made to North Coburg in Melbourne, about two kilometres from where I grew up as a kid. There was an enormous cultural problem in that area, as people would know if they have ever been down Sydney Road. You have the Greek bit, the Turkish bit and the Italian bit. Sydney Road is a snapshot of Europe.

What I did not realise was that in Coburg and Brunswick there was a significant Muslim community. In the provision of health services, the cultural differences in the Muslim community reared up rather nastily, particularly for women. There was no way they were going to go along to a non-Muslim male doctor. The males in the family were not going to let them anyway. They had to figure out what they were going to do.

The health centre was run from a shopfront in North Coburg. It was almost in the Coburg town centre. It was just about down the road from the Town Hall and your beloved institution Pentridge jail, Mr Temporary Deputy Speaker. It was run by women. There were no doctors on staff. Female doctors were contracted in. All the staff were women. They outreached into the community. A Muslim Arabic-speaking social worker went with them.

The point I make is that cultural difference meant that these people were not getting the health services which the rest of the community enjoyed. The bureaucracy said, "We have to do something about it." With some help from multiculturalists and the department of health, they tackled the problem in a positive way. I am pleased to say that the service is excellent. It is a great model. If we ever decide to look further into our health service, I would recommend it very highly.

Religious differences are always difficult. There are tensions right round the world, as we know, with our people in Afghanistan. We know about the Irish problems and all that sort of thing. As far as I am aware, religious intolerance has not reared its ugly head all that badly in the ACT. I would suggest that that may be because we have embraced different cultures warmly. With a bit of luck, we can continue to do that.

I urge the government of the day, whoever it may be, to show the same warmth in embracing the difficult cultural lifestyles. Some Asian people are getting a name for indulging in criminality. A few years ago, at the interchange in my area, there were some gangs of a particular ethnic type. We need to address such issues. In developing our attitude, philosophies and policies on corrections, we need to embrace that. If we do not, we will live to pay a big price.

I am grateful to Mrs Burke for raising the issue. I do not think governments, of whatever persuasion, need to trumpet their successes. Those successes should be givens. We should expect them. The community should expect them and we should deliver them. We should highlight the failures and correct them, but in the atmosphere of a positive critique. I do not think we should be politicising the issue.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (4.42): At the risk of being told that I am politicising these issues, I want to refer to some of the things that government in the ACT has been doing to address what we would see as a reinforcement of the strong multicultural framework on which the ACT is built, addressing particularly recent racially based incidents in this community and elsewhere in order to ensure that we can look our citizens in the eye and say clearly that we believe that it is important to prevent such incidents and that we have taken steps to do so.

Mrs Burke talked about the value of diversity in the community. That is a very worthwhile point to note. It is also important to work out how we take that further and, through education and in other ways, encourage and promote a sense that the ACT being a multicultural community is a matter of great profit to the rest of the community; that by having a sense of excitement and pride about the value of that concept, by thinking of the good things it means and not of the supposedly bad things it might mean, particularly in terms of stereotypes and so on, we engender a stronger sense of acceptance of, and growth in, that concept and therefore a stronger sense of engagement from people from other backgrounds.

The framework we laid down in May of this year, the framework for a multicultural ACT 2001-2005, sets out, from our point of view, what kind of vision we should have to build on this sort of framework. In recent days—not so much in the ACT, I am pleased to say, but certainly in other parts of Australia—there has been debate about whether particular ethnic groups are more or less responsible for criminal behaviours. That is a debate which I am hoping will never be particularly vigorous in the ACT, because it is a particularly counterproductive kind of debate.

My colleague has shown how we as a community in the ACT, and we as Australians, have benefited enormously from multiculturalism and diversity. The participation of Mrs Burke and Mr Hargreaves in this place, in a sense, is evidence of that. Why people focus on negative stereotypes and put at risk those benefits is an issue which is addressed to us all.

The One Nation phenomenon, with its simplistic rhetoric about sameness and about everyone having the same views, is a matter of concern. The intolerance that indicates is a real challenge for all of us, although perhaps not as much here as in other parts of Australia.

I have been welcomed in recent months as Chief Minister to a very large number of multicultural and ethic community functions. The warmth of the welcome has always been very solid, reinforcing the benefits that flow from this kind of experience. A desire has grown from that to ensure that we push as much as possible the sense of excitement and benefit that flows to all of our community from these sorts of things.

As a community, we have a fine record of cultural harmony and multiculturalism, but unfortunately we sometimes see evidence of not everybody agreeing that this is a beneficial record. Only a few days ago there was an attack on the National Jewish Centre in Barton. Those sorts of incidents, while rare, are of great concern. The ACT Human Rights Office annual report for 1999-2000 shows 13 formal complaints for racial discrimination and six complaints for racial vilification. We need to instil a sense that this kind of behaviour, to the extent it is motivated by race, is unacceptable and that the majority of the community's spirit or will is that these sorts of incidents do not fit within the expectation that one citizen has of another.

Mahatma Gandhi said, "Intolerance is itself a form of violence and an obstacle to the growth of a true democratic spirit." Members may not be aware that, as well as being the International Year of the Volunteer, 2001 is also the International Year of Mobilisation against Racism, Racial Discrimination, Xenophobia and Related Intolerance. I am glad there are not TV ads running with that title, but the concept is a very important one to be pushed. It is perhaps a little unfortunate that the coincidence of the International Year of the Volunteer has not allowed much debate about those issues. On a positive note, perhaps it is also an indication of how little those issues have mattered in the ACT because of how small a problem we have had in those areas.

A study of racial vilification legislation was undertaken by the Australian Institute of Criminology in 1998. It found that racial vilification legislation was sometimes opposed by people because racial vilification—ethnic jokes, stereotypes, things of that kind—at worst, only leads to hurt feelings. Of course, it leads to much more than that. It leads to a sense of alienation, of disempowerment. If we accept these stereotypes that become associated with different groupings, we limit our potential to develop better as a community.

On that score, quoting Dr Martin Luther King is very appropriate. He had some experience of racism. He said:

> There is nothing more dangerous than to build a society, with a large segment of people in that society, who feel that they have no stake in it; who feel that they have nothing to lose. People who have a stake in their society, protect that society, but when they don't have it, they unconsciously want to destroy it.

When vilification of that kind, even just simple small acts of discrimination, becomes widespread, then we reinforce the silence by such groups at whom these acts are directed. People's career outcomes are affected, their educational opportunities are affected and their participation is limited. We only need to look around this community to see that that kind of limitation would be extremely deleterious to all of us.

The ACT has been able to use the strength of its position as a community at the crossroads of the world to the great personal advantage of the citizens of this community. A recent example of that is our capacity to be involved in the decision to secure the 2008 Olympic Games for the city of Beijing. The bridge that we built earlier, based on the sister city relationship, was built very much on the strength of the local activities of Chinese people living in the ACT. That opportunity, I am convinced, is going to be a very important commercial opportunity, as well as a social and cultural opportunity, for the city in the future.

We need therefore to reinforce a sense of gain, of advantage, that comes to our citizens from such activity and to minimise the kind of activity which this matter of public importance is addressed to—racially based incidents of any sort. I think that that would contribute not only to the taking up of opportunities like the one I mention but also to a greater sense of cosmopolitan atmosphere, a sense of a linguistic opportunity, a sense of us being very much closer to the centre of activity in this wide world of ours than our geography might suggest.

We have had discrimination legislation in place in this territory for 10 years. In the next couple of months, the 10th anniversary of the passing of our ACT Discrimination Act occurs. We have participated in a national project to develop some printed material and an Internet web site for schools entitled "Racism. No way". That is a very important gesture towards ensuring that we drive further a positive atmosphere on these issues in the ACT.

The opportunity for us to do much more in this respect is very strong. The universal support that these concepts enjoy in a place like this Legislative Assembly is a great asset to build upon. I hope that we will minimise racially based incidents in the future in the ACT by virtue of sending a very clear signal about what we see as the importance of those principles and the value of those things to the citizens of this community.

MS TUCKER (4.52): I know Mrs Burke wanted to make this a positive debate. I am very supportive of her attempt to do that, and I am pleased to support what is working well in our community. We have a very diverse community with many ethnic groups represented. We have a reasonably harmonious situation in the ACT. But to have a multicultural society we as a community have to acknowledge that the original dwellers of this land, the indigenous people of this land, are part of the multicultural community. I am surprised that that has not been raised.

Mr Humphries said that it has not come up as an issue that this year we are focusing not only on volunteers but on issues of racism, xenophobia and related intolerances. The latter has been very high in my understanding of this year. The Assembly education committee looked at children who are unlikely to complete school and how we can support them. In that inquiry there was significant evidence about racism in our schools, particularly against indigenous students but also against other groups of students who come from particular ethnic backgrounds and feel socially excluded for whatever reason. It is indeed a debate that is alive in the ACT for some of us. It is certainly alive for anyone who is working closely with the Aboriginal community in the ACT.

The report of the committee I chaired made recommendations on the broader community and social issues that are often the structural causes of racism and the exclusion of particular groups of people and antisocial acts against them. We see it in Sydney at the moment.

Mr Humphries talked about One Nation and its simplistic oneness, but it is more than that. The appeal of One Nation is not just the idea that we all have to be the same. One Nation is picking up on a growing insecurity in this country and a growing awareness that the egalitarian society we thought we had in Australia is disappearing. That is related to the fact that it is not so easy for all people to have a fair go in this community. This

sort of inequity is increasing, and we have the statistics to prove it. I remember Mr Humphries denying that, and I had to come into this place with surveys and research to show that there is growing inequity in the Australian community.

When there is division between those who have and those who do not have, you have scapegoating of particular groups, which is then popularised by particular political groups in the community. It is happening all over the world. It is the tool of the right. We are all very familiar with it.

I understand multiculturalism to mean a community that is rich and diverse, with its ethnic groups offering the whole community what their culture brings. It is not about the other people who are not us. It is about many people from different ethnic backgrounds working, living and playing in our society as a group, with their particular rich cultures intact as well as moving with what is happening around them. If you want that, then you have to understand the importance of having equal opportunities in the community. If you do not have equal opportunities and if governments create inequity, you will get scapegoating. Policies of this government and the federal government have not recognised that.

The education report of this Assembly said that we see the school experience as a key opportunity to challenge the prejudices in the broader community through knowledge and understanding that people can be different and that it is okay to be different. It is also about recognising the school system, the public school system in particular, as the key opportunity for us to equalise opportunity as much as we can, to address the inequities in the backgrounds children come from. It is important to acknowledge those structural issues.

Mr Humphries quoted Dr Martin Luther King as saying that people who feel they have a stake in society do not want to destroy it. That has clearly come out of all the work we have done in the committee here and in all the other research about how you address and improve community wellbeing.

I find it a little interesting that Mr Humphries should refer to our sister city relationship with Beijing and China hosting the Olympics as an example of this government's commitment to multiculturalism. This debate is about acceptance, tolerance and freedom to be who you are. We know that Beijing have used their winning of the right to host the Olympics as legitimisation from the international community for their crackdown. They have said so in the media. They have said, "The international community has supported our crackdown, on Falun Gong practitioners in particular."

We know that there are business men and women in Canberra who will not be able to go to China to promote the business goals of this government. A businessman in this city could not even meet the new ambassador because he practises Falun Gong. So I think Mr Humphries needs to rethink his position that somehow this is entirely consistent with his commitment to the principles of acceptance and freedom of communities and ethnic groups to be who they are. Surely that has to be extended to the right and freedom to practise your religious belief, or your meditation exercises, as is the case with Falun Gong.

It is important to have this debate. It is a good thing that Mrs Burke raised this matter. In the ACT we are fortunate not to have experienced too much racial disharmony, although it is certainly there for the indigenous community. We need to recognise why that is. Compared to some other places, we do not have such difference and inequity, but we are heading in that direction. If this government is sincere about embracing multiculturalism and valuing diversity, it has to address the structural issues. You cannot have this debate without doing that.

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

MR STANHOPE (Leader of the Opposition) (5.01): I wish to join other speakers in this important debate this evening to acknowledge, as has been acknowledged already, that our continuing support for multiculturalism is a feature of the position that each of us in this place takes. There is a broad acknowledgment that multiculturalism as we understand it is broadly accepted, applauded and celebrated by most members of our community. Most of us embrace and applaud it and are thankful for the fact that we have an increasingly cosmopolitan society that is prepared to celebrate, and express its pride in, the diverse nature of our emerging Australian identity, culture or ethos.

As has been suggested by other speakers, it can be taken as given that that is the view of perhaps all of us in this place. That is something we should certainly applaud. There is much to be proud of here in Canberra. Canberra is a very good example of the success of a community successfully developing and continuing to support its multicultural sense, its multicultural underpinning, its capacity to acknowledge the individual backgrounds and the individual cultural strength and cultural identity of a significant proportion of its members. I understand that 26 per cent of the people of Canberra were not born in Australia.

The extent to which we as a nation and Canberra as a community are so strongly linked to other nations around the world has significant implications. A significant proportion of our people have within their hearts a place for another nation and another culture. We need to acknowledge that, as we do. As a community, we need to allow ourselves to grow as a result of our significant diverse background.

Ms Tucker and Mrs Burke acknowledged the indigenous background and nature of this nation. It is worth acknowledging that to some extent Australia has always had a diverse culture and has always been a diverse nation. At the time of white settlement, it is estimated that there were at least 250 separate Aboriginal nations peaceably co-existing on the Australian mainland. To that extent, this nation has always been particularly diverse. We need to acknowledge that. As Ms Tucker said, we need to remain focused on the impact on the indigenous community of the arrival here of European settlers just over 200 years ago—the continuing adverse impact of the our broadly cosmopolitan and diverse population of essentially European, Asian and other backgrounds.

I say all those things to acknowledge my strong personal support. I am first generation Australian, a son of migrants. My party, the Labor Party, is committed to multiculturalism and to a fair and just society in which we are all treated fairly and

equally and, as Ms Tucker said, enjoy absolute equality of opportunity for all Australians.

Ms Tucker made the very good point that the place, the institution, for ensuring the greatest degree of equality and opportunity is our education system. That is where it starts. That is where the greatest opportunities exist for ensuring an equal, fair and just community. As a community, we have to ensure that every child, every person, has equal access to high-quality education. Everything flows from that in terms of our determination to ensure that our community is responsive to the needs of everybody, irrespective of their ethnicity, their background, their colour, or any of the other indicators that have at different times discriminated against some people in their opportunities to participate equally in Australia and our community.

We need to acknowledge in a debate of this sort that there has been a struggle for people from different backgrounds, particularly for people who are not white. We proudly declare our commitment to multiculturalism these days. We abhor racism. The Attorney-General and I made statements last week in relation to the attack on the Jewish synagogue, something which is not to be tolerated in this community. It is a signal that there is still work to be done. We need to remain vigilant.

In a discussion of this sort, it is important that in our enthusiasm for multiculturalism, in our opposition to Hansonism, in our preparedness to stand here and rail against racism, intolerance and discrimination, we acknowledge that we as a nation continue to face some significant issues around race, racism, racial discrimination and racial vilification.

In addition to the stark issue of an attack on the Jewish synagogue which the Canberra community suffered just 10 days ago, there is within Australia a significant debate, a disturbing debate, around gang-related crime. As Ms Tucker said, there has been a propensity for nations throughout history to scapegoat certain groups and certain organisations. We continue to have this propensity to blame particular groups.

I have had representations from members of the Vietnamese community here in Canberra about the association which the Vietnamese community in Australia has suffered in community news about the genesis, the backbone or the mainstay of drug dealing in Australia. There are genuine issues in relation to our identification of a certain criminal activity with certain groups within the community.

These are issues we need to face up to. We should not be afraid to talk about some of these continuing issues that are race related or race backed. There is a major debate occurring in Sydney at the moment around the activities of certain so-called Middle Eastern gangs. These are worrying descriptions. These are issues that we need to continue to grapple with.

Racism was a feature of the launching of the One Nation Party—a party which to a large extent did not hesitate to generate a fear of foreigners as the mainstay of its policy.

There are issues we need to remain mindful off. There are significant issues affecting ethnic communities here in Canberra which still need to be addressed. There are issues around isolation of older people within some ethnic communities. Their isolation is generated by the fact that they do not have English as a first language. There are

significant issues around the care of ageing people within ethnic communities. There are issues around the extent to which some children from some communities do not achieve as well at school as perhaps one might hope.

These are issues that we need to continue to focus on, just as we need to remain vigilant about some of the incipient, insidious racism which continues to be a feature of the life experience of so many people from diverse, ethnic and non-English-speaking backgrounds here in Australia.

Let us not pretend that people from within ethnic communities in Canberra do not continue to suffer racist taunts or racism, mostly covert. Let us not forget that it continues to exist. We also need to remain vigilant about the extent to which people of other backgrounds participate in all aspects of community life—the extent to which they are represented on boards, the extent to which they are represented in parliament, the extent to which they are part of the mainstream community life here in Canberra, the extent to which they feature on invitation lists from major organisations in Canberra, the extent to which their overseas qualifications are recognised. These are the range of issues we need to remain mindful of.

MR TEMPORARY DEPUTY SPEAKER: The discussion is concluded.

Finance and Public Administration—Standing Committee
Report No 26

MR QUINLAN (5.12): I present the following report:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Public Accounts Committee Report No 26—Review of the Auditor-General's Reports of the Performance Audit of the Redevelopment of Bruce Stadium, dated 27 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

I think this is the final report on the Bruce saga. It is an important report really because it does try to tie up the lessons that might have been learnt from the Bruce Stadium fiasco. It embraces the 12 volumes, some 10 centimetres, of Auditors' reports initially; the subsequent report No 3 on market research and marketing, which was held back for a couple of reasons, commercial-in-confidence and a few legal problems; and, significantly, a summary of the Auditor-General's report entitled *Enhancing professionalism and accountability*, a report that I have referred to as the Rob Tonkin report because Mr Tonkin gave the opinion that the Auditor had not given any recommendations in his previous audit report and therefore the 10 centimetres of Bruce Stadium audit reports were of limited value. I think Mr Parkinson may have taken a little umbrage at that and in return has written a very pointed report that might assist Mr Tonkin in the future.

As part of the process of preparing this report we wrote to all of the significant parties involved and invited them to attend or to make a presentation submission to the committee, and you would be surprised to hear that we received virtually no reports. We got two responses initially, declining to appear. We received four submissions, three of which were from the government, and one of them—I think it was from Arthur Andersen—said, "I think we were misrepresented by government."

In summary, the Auditor-General has estimated the actual cost to be $82 million. That is the net present value of all the expenditure incurred with Bruce. It is probably now an underestimate, given that we see supplementary appropriations of $1.7 million for one operating year.

The committee agrees that the Bruce Stadium is a stadium of quality. It does express concern, as the Auditor did, that the corporate areas are better serviced than the general areas. That is probably a metaphor for the Carnell/Humphries government: the corporate areas were well serviced and the general areas virtually got a change in the colour of their seats. A good percentage of football fans were alienated from the stadium because of the change in the configuration of the oval. Of course, the government then had to go and spend a lot more money on Manuka Oval, and the money spent on Manuka should be bundled up with the costs of Bruce Stadium when one looks at what this exercise cost at the end of the day.

The Auditor-General found that no comprehensive cost-benefit analysis had been done on this thing. Even though the government has decried his comments, there had been really no financial rigour applied at any given time.

I will skate through some of the findings. There are a couple of points I want to make. The first is that the whole exercise was underpinned by a financial model which was sometimes referred to as the business plan. It really qualified as neither. This report contains, for your reference, some dramatic figures which compare the forecast embodied in the financial model versus the reality of previous years, even years when the Raiders were winning premierships and having testimonial games, or last games on Bruce Stadium for Mal Meninga and naming stadiums after him. So the financial model business plan was clearly fanciful, and virtually every person involved in or associated with the redevelopment knew that those figures were fanciful but somehow everybody meandered onward.

That particular model was claimed to have been reviewed by Arthur Andersen in July of 1997, and I think even the Chief Minister at the time claimed that that was part of a probity check. Arthur Andersen was one group that did put in a submission to this review and they were vociferously disowning the use of their assessment as any form of meaningful document.

There has been significant comment made on the hiring agreements that were made. I suppose the significant point that should be drawn from that is that the government went ahead and settled hiring agreements with the major hirers even though those parties themselves were highly dubious about the predictions. You cannot blame the hirers for taking the good deal, but, certainly, the government did not negotiate very well.

The financing has also received considerable airing in the past, and I really have to put one comment again in *Hansard* that was part of the government's defence. It says, "Officials were operating in the real world with all the associated limitations and constraints on time." I have to ask, "What real world was that?", because it seems that virtually everything that was done in relation to Bruce Stadium was done on a fanciful base rather than a real base.

Within the audit report—I think it is report No 6—there is a very important comment that says that this government spent something in the order of $600,000 on consultants pursuing a financial model which only had the benefit of reducing information available to the public and the Assembly. I cannot stress that too much. In the order of $600,000 went to consultants to set up a financial structure which had the single benefit of masking information from the public or the Assembly. That rings a little bell in relation to recent debates in this place, does it not?

We have made reference in the report, of course, to the high profile illegal expenditures and the taking out of an overnight loan. Again, the only result that could be derived from taking out that overnight loan was to change the look of the books at the end of the year. There was no effect on financing, and nothing else; but again it was masking information.

In relation to that overnight loan, I think the government's defence was something like "a middle-level public servant forgot to issue some guidelines". That particular claim does not stand up. That is not an honest claim. It is quite clear that the guidelines that were issued later were issued under a section of the Financial Management Act that has nothing to do with this sort of investment anyway. It only had to do with allowing the government to manage its day to day cash surpluses. I guess that sort of elasticity in administrative procedure is again a hallmark of what happened at Bruce, and a hallmark of what was happening generally in this town.

One of the great unanswered questions, even though we have 10 or 11 centimetres of audit report, is: why did the government select the project manager that it selected? We have all seen the report. We have all seen the repeated references to lack of documentation. There is insufficient documentation to pin down a reason. How we managed to appoint one body on an open-ended contract when we were offered a fixed price contract by a very reputable, well-known national firm remains an unanswered question.

I have to say at this point that since the Bruce Stadium revelations there has been this effort to change the public sector to public sector renewal. That is the claim. I have specifically asked the Auditor-General whether the procedures and practices at the time were sufficient to avoid the fiasco that occurred, and the answer was clearly yes. It was not the prevailing practices and guidelines that caused this problem. I have to say that it was clearly not the fault of an administration gone wrong. It was clearly the result of a culture that emanated from the highest level of government in this town and that may have pervaded a couple of the elements of the administration, but no more. It is disappointing to see the spotlight still pushed onto the innocent survivors within the administration as opposed to those that were directly responsible.

There are comments in this report that I recommend to you in relation to the lack of market research and in relation to the contract that was set up with the sales and marketing consortium, where again a couple of million dollars went down the tubes for absolutely no result. I think the achievement of sales under that contract was something like three per cent of target. It was a ridiculous deal. The government had done so poorly in setting up the deal that once legal action was commenced we, or the taxpayers of Canberra, lost the game.

There is a section in the report on governance. I am reminded of the number of times that I have heard Chief Ministers in this place tell us what a wonderful public service we have, but it seems that they are still happy to imply that it was mainly their fault. I live in this town. I run into people who happen to be tied up in our administration, and our wonderful public service does not have a high morale at the moment. That lack of high morale has a lot to do with the management and operation that is indicated by this particular exercise.

Mr Osborne: Support my bill and they will be much happier.

MR QUINLAN: I refer you to Mr Wood's quotation: "For every complex problem there is a simple answer, but it's usually wrong." Sometimes there is a simplistic answer, Mr Osborne. I remind members of the seven out of nine cabinet submissions that were either misleading or incomplete in the amount of information that they delivered to cabinet. *(Extension of time granted.)*

I am putting a few thoughts into *Hansard* simply because this is probably the most significant issue that has arisen over the last 3½ years. I think the breadth of this issue is not just indicative of a single mistake made; it is the summary of the government that we have had for the last 3½ years, if not longer.

In relation to the public service renewal and Mr Osborne's interjections in relation to supporting his legislation—I did say earlier that I appreciated the motivation behind that legislation—we did take the time to speak to the Public Service Commissioner. We did take the time to think through the ramifications of that legislation and we have concluded, rationally and logically, that it is not the way to go. Sorry about that.

I will not take much more of the Assembly's time. I repeat that this is probably the most significant issue that came before this place in the last 3½ years. It has had considerable impact. Not all of those impacts have been redressed yet. There is public service renewal and there is a need. Whichever government comes into place after the next elections, whether the Liberals get back or if we get in, it does face the job of rebuilding the administration. I attended at the beginning of this year the retreat that all of the chief executives and all the heads of agencies have once a year and discussed this topic. I think I have a reasonable appreciation of the fact that they have a big job in front of them, and they know it.

I will close, Mr Speaker, by thanking my fellow members of the committee for the work that went into this report. I thank the secretary, Maureen Weeks, and I particularly thank Siobhan Leyne who is here on secondment and took the trouble to plough her way through those 10 centimetres of audit report—I am sure most members have not been past every page—and helped us come up with, I think, a reasonably comprehensive

report which I commend to this Assembly and to any administrative historian who happens to be taking a look at government in the ACT.

Question resolved in the affirmative.

Public Sector Management Amendment Bill 2001

Debate resumed.

MR OSBORNE (5.31), in reply: Mr Speaker, after listening to that I need a good stretch.

MR SPEAKER: You need an extension of time, Mr Osborne.

MR OSBORNE: Yes, please. I seek an extension, Mr Speaker. *(Extension of time granted.)* I will read a little bit more. I do not hold out much hope of Mr Stanhope joining us, but—

Mr Quinlan: Well, sit down and shut up as well.

MR OSBORNE: He will have to come down to vote.

Mr Kaine: Are you sure you want to do this? The audience has gone. You have noticed that they are not there any more.

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

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

> The "emphasis on accountability and outcomes" may suggest to some that "process" is no longer an issue. In my opinion, it is important that recognition be given to the need to maintain sound and defensible "processes" in the achievement of "outcome/results". Where there is not proper balance between "inputs and processes" and "outputs and outcomes" there is a real risk that all relevant issues will not be adequately considered before decisions are made. Any inadequacy in this regard does not advance the cause of good government.
>
> The primary and only duty of those holding public office is to "properly safeguard the interests of the public". The obligations of the public servant are in many ways a reflection of the responsibilities of government generally to the public trust. The interests of government do not exhaust the public interest. Any administrative

> framework which has an negative effect on continuing public confidence in government arrangements is clearly, in and of itself, not in the public interest.
>
> The factors necessary as a precondition to the ability to act in the public interest are:
> - independent judgment;
> - integrity;
> - appreciation of public values;
> - absence of conflicts of interest;
> - respect for constitutional legislative arrangements;
> - knowledge of the law;
> - freedom from undue influence of any sort.
>
> The presence of all these factors will not guarantee that a public servant will act in the public interest, but the absence of any one of these factors will call the integrity of the whole administrative framework into question.

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

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

The South Australian Auditor then concluded that no government can say with confidence that the absence of the security of, at least, the contractual term of engagement free from the threat of removal without cause is not a factor in influencing a chief executive in the performance of his functions.

The former New South Wales Auditor-General, Tony Harris, conducted a similar performance audit in 1998, and wrote extensively in both 1998 and 1999 about the numerous problems that he found. I think it would be fair to say that they are very similar to the South Australian problems.

I suppose, as I said earlier today, Mr Speaker, that the most disappointing aspect of the legislation going down has been the attitude of the leadership of the Labor Party. I think we have all detected the confidence and, I suppose, arrogance on that side of the chamber. As I said earlier, we are all aware of the polls. We are all aware that in all likelihood the Labor Party will be in government next year.

Mr Berry: Have you got any details? I would like to know a bit more about them.

MR OSBORNE: Just your polls that I've seen. Quite clearly, Mr Speaker, those in high places in the Labor Party have taken the view that they want to appoint their own mates, and all the nonsense and the rubbish and the lies in the last three years about public accountability and fearless and frank advice has been nothing more than a political exercise designed to discredit this government. When they had the opportunity today to support some legislation to have a career public service they chose not to, and I think it's an absolute disgrace, Mr Speaker. The Leader of the Opposition, the future Chief Minister, hasn't got the courage to come down here and explain his reasons why.

In summing up, Mr Speaker, I thank Ms Tucker and Mr Rugendyke for their support, and I thank Mr Kaine for his half support. I thank the TLC that I have worked with and other union bodies that agreed to amendments of this act. I would like to thank Mr Berry for at least the early negotiations, as he cowers over there. I thank him for the passive way today that he spoke against this legislation.

Mr Speaker, should I be returned here I intend to table this legislation as is, with the amendments, on the first sitting day back. I just hope that the government of the day shows more maturity when it comes time to vote.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes, 3		Noes, 12	
Mr Osborne		Mr Berry	Mr Moore
Mr Rugendyke		Mrs Burke	Mr Quinlan
Ms Tucker		Mr Corbell	Mr Smyth
		Mr Cornwell	Mr Stanhope
Mr Hargreaves	Mr Stefaniak		
		Mr Humphries	
		Mr Kaine	

Question so resolved in the negative.

Suspension of standing order 136

MR CORBELL (5.42): Mr Speaker, I move:

> That standing order 136 be suspended so as to enable debate on the Eggs (Labelling and Sale) Bill 2001 to resume forthwith.

Mr Speaker, just for the clarification of members, the introduction of this bill does trigger the same question rule, as was flagged in the debate last week in relation to the Food Act. Issues in relation to the labelling of eggs were proposed in some amendments by Ms Tucker which were defeated in that debate. Because this bill raises substantially the same questions, I seek the agreement of members to allow the matter to be dealt with in a different form, albeit the same substance.

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

Eggs (Labelling and Sale) Bill 2001

Debate resumed from 22 August 2001, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR MOORE (Minister for Health, Housing and Community Services) (5.43): Mr Speaker, the history of this legislation goes back a long way. In this instance it starts with the signing of the 2000 intergovernmental agreement on food regulation in which jurisdictions agreed that they would not create their own unique food standards except where they were of a temporary nature, and then only to protect public health and safety. In accordance with this, the Food Bill 2001 did not include reference to the egg labelling provisions which were contained in the Food Act 1992. This had caused some consternation at both officer level and ministerial level. We had sought a solution that other ministers would agree with but they did not do so. As a consequence that part of the act disappeared.

I regret that I did not come up with the lateral solution that Mr Corbell has come up with. I am very pleased that Mr Corbell has come up with it so that our egg labelling regime can remain in place. The solution put up by Ms Tucker in another attempt to achieve the same goal was unacceptable for a series of reasons, particularly because we did not want it attached to the Food Act, nor even the Animal Welfare Act.

Whilst we await a national agreement of the type that Mr Smyth has been negotiating with agricultural ministers and has largely got agreement on, I think it is appropriate for us to have this interim arrangement. It was never our intention to remove this legislation, and for this reason the government will be supporting this bill. Even though I believe some members of the government did not support the original legislation put up by Ms Horodny, they have now seen that it works okay and have accepted it. We have worked in the spirit of the Assembly's decision to ensure that there is a national regime in place. Until such time as that national regime is in place and is satisfactory to members of the Assembly, this is a sensible interim measure for as long as it takes.

Mr Speaker, I did assure members before, and I reiterate that assurance, that I will not gazette the Food Bill until such time as I am able to also gazette this legislation so that there will be no break in the food labelling regime. Basically this legislation maintains the status quo of how eggs are labelled. That is why the government will be supporting it.

MS TUCKER (5.46): The Greens, of course, also will be supporting this bill. It is obviously just another mechanism that is being used to achieve the objective that the Greens had this week. That was the objective of our original legislation put up by Ms Horodny, so we support it.

MR CORBELL (5.47), in reply: I thank members for their support for my bill. The bill, as Mr Moore has outlined, does maintain the status quo. I would like to thank the Office of Parliamentary Counsel that prepared this bill in a very prompt time frame. I am

grateful for their assistance and advice. The potential to lose our egg labelling laws was not only an issue for consumers and residents in the community in the ACT; it was also an issue nationally because the ACT's legislation is seen as landmark legislation that leads the country when it comes to egg labelling and when it comes to giving consumers choice about and information on the different methods of production of the eggs that they buy. It also leads the country in terms of developing mechanisms to allow consumers to place pressure on producers to shift away from inhumane methods of egg production.

So, Mr Speaker, this is important legislation. It is important that it is maintained in place. I welcome the minister's commitment that it will be gazetted at the same time as the Food Act so as to provide for a continuity of legislative coverage. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Pharmacy Amendment Bill 2001

Debate resumed from 8 August 2001, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR MOORE (Minister for Health, Housing and Community Services) (5.48): Mr Speaker, the Pharmacy Amendment Bill introduces an important new aspect into this territory. As Ms Tucker has indicated, it aligns the ACT with the rest of Australia in terms of ensuring that we are able to deliver a special form of health service. Many of us know that pharmacists are rated very high in the professional community. Many of us have phoned the pharmacist, sometimes the late night pharmacist, to get advice. I have myself. I've got a specific example, Imigran, which is a migraine tablet. I asked, "Is it possible to take Imigran along with Panadeine?", which contains a certain amount of codeine and so on. The pharmacist provided us with an answer. The pharmacist is a very important person within our community. I think all of us recognise the important place they hold in the health area. I gave one small example. There are many examples of us going to pharmacists for health advice, and we expect to continue to get that service.

Mr Speaker, the legislation that Ms Tucker has put up has reinforced that position, and the government will be supporting it. There was one issue that I have been negotiating with Ms Tucker over for some time that we were concerned about with regard to the self-government act. There was some suggestion that the bill might breach part of the self-government act. I believe that the amendment that I have circulated will deal with this issue. There is a small explanatory memorandum. It is really a question of the way we approach it rather than a matter of substance.

I am pleased, on behalf of the government, to be able to support this legislation on our last day of private members business. I know that for a long time pharmacies have looked for this sort of security within the ACT, the same level of security they have right across the rest of Australia.

Mr Berry: They have never been in danger though, Michael.

MR MOORE: Mr Berry, whom I am not allowed to refer to as Mr Cackle Berry apparently—

Mr Berry: You can if you like. Mr Moore says he thinks he is not allowed to refer to me as Cackle Berry. He has joined the Liberals now. He can call me what he likes.

MR SPEAKER: I will call you what I like in a minute if you—

MR MOORE: Mr Speaker, the interesting thing is that Mr Berry suggests that the pharmacists have always been able to do this. Yes, but there has always been a cloud in the ACT over whether pharmacies could or not, and whether or not we could have pharmacies effectively owned by major corporations. This bill clarifies the position and the government is pleased to be supporting it.

MR BERRY (5.51): Mr Speaker, I recall one of the very first deputations that I received in my office. I was a recently appointed health minister in 1989 and I got this phone call from my office. They said, "There is a friend of yours on the phone who wants to come and see you." I said, "Oh, yes."

Mr Humphries: You have no friends. You were surprised at that, weren't you?

MR BERRY: I said, "Who could that be from the throng?" They said, "It's Kate Carnell. She wants to come and talk to you about pharmacies." Time dims the memory a bit, but I think she came and saw me and I think she put to me exactly the same sort of thing that we have been talking about at the moment. I think I might have said to her at the time that as there wasn't any danger anyway I didn't know what the fuss was about, but the wording of the act seemed to worry pharmacists a bit.

I think before the last ACT Assembly election the Pharmacy Guild people also approached us about this sort of legislation. I do not think they have ever been in any danger, but because of national competition policy and all that sort of stuff they have been extremely worried that they might be gobbled up by some of the bigger operators, and they have fairly argued that it would affect the level of the quality of service that would be provided to the community.

Mr Speaker, pharmacy is an interesting business. The goods and wares they sell to keep their pharmacy businesses above water are sold by a lot of other people. It was, I think, a matter of some concern that those other people might end up wanting to run pharmacies as much as pharmacies needed to sell the products that could be found in Woolworths and other places. Subsequently I see that this bill is in front of the house and Labor will be supporting it. I do not think there was ever any danger to the pharmacists. There were a few words in the legislation that seemed to trouble them and seemed to indicate to them that they might be taken over by somebody else in the context of

competition policy and all those sorts of things. The historical significance of this is that one of the first deputations was from the former Chief Minister who in 1989 declared herself as a friend of mine.

MR RUGENDYKE (5.55): Mr Speaker, I will be wholeheartedly supporting this legislation. I worry that if it is not passed pharmacies would be under threat from what I refer to as the Woolworthisation of the world. I believe that organisations such as Woollies would be itching to have a pharmacy in their premises somewhere. I am trying to visualise how they might do that, whether it would be with the fruit, the fish, the pharmacy or the deli. It just does not sit well with my impression of what a pharmacy should be. But I do worry. I have been told that Woollies in Manuka, although I have not been there, is set up for this very purpose. I am told that there is an area of that new development that would—

Mr Humphries: It's Coles.

MR RUGENDYKE: Coles, is it? Thank you. They are trying to gazump Woollies, by the sound of it—the Colesisation of the world. I have been told that this Coles has an area of their new premises that would adapt perfectly to a pharmacy, and that is the last thing I would like to see happen to a pharmacy. I wholeheartedly support this legislation.

MR STANHOPE (Leader of the Opposition) (5.56): Mr Speaker, I endorse the comments that my colleague Mr Berry made. As Mr Berry said, the Labor Party will support this bill which addresses an anomaly in the Pharmacy Act of 1931 that permits a company made up of non-pharmacists to own and operate pharmacies, despite the plain intention of the act that pharmacies may only be owned and operated by registered pharmacists. This bill closes that loophole by requiring that directors, members and shareholders of any company wishing to own and operate a pharmacy be registered pharmacists. The only non-pharmacist directors and members permitted will be close relatives, parents, spouses, children, of the registered pharmacist. I understand that similar legislation is already in place in South Australia.

I have had representations, as I understand have other members of the Assembly, from the Australian Friendly Societies Pharmacies Association which owns and operates 33 pharmacies in jurisdictions other than the ACT. Even though the association says it has no intention of opening a pharmacy in the ACT, it points out that this bill may prevent it from doing so.

I understand that Ms Tucker has considered an amendment to exempt the friendly societies from the bill, but I understand that she will not proceed at this stage. I believe, from discussions between her staff and mine, that she is prepared to revisit the issue around the position of the Australian Friendly Societies Pharmacies Association if it does become a reality here in the ACT. I acknowledge that I received representation and that there was some validity to the point that they put. I do that in the context of the Labor Party supporting this bill but acknowledging there may be another issue that needs to be addressed at a later date.

MS TUCKER (5.58), in reply: I want also to mention the Australian Friendly Societies Pharmacies Association. We did speak to these people. These pharmacies were established last century by friendly societies which developed at this time as non-profit

mutual associations to provide various types of social assistance to their members in the days when there was no government-supplied social welfare. These pharmacies have survived until this time as mutual not-for-profit organisations but are now regarded as being incorporated entities under the Corporations Law.

As these friendly society pharmacies are controlled by boards of directors who are not registered pharmacists, these pharmacies would not be able to be registered as being incorporated pharmacists under my bill. In other states where companies are not allowed to operate pharmacies, friendly society pharmacies are allowed to continue under grandfather clauses in the relative state pharmacy laws, and their expansion opportunities are severely restricted.

As there are currently no friendly society pharmacies in the ACT, the implementation of my bill will have no practical effect on this organisation. In fact, I must admit that I had no idea that friendly society pharmacies existed when I prepared the bill. The Australian Friendly Societies Pharmacies Association is, however, concerned about its exclusion from this bill and the negative message it sends to friendly society pharmacies elsewhere.

I also want to put on the record that I have some sympathy with the friendly society pharmacies in the mutual aid objectives under which they were established. The Greens generally support the concept of cooperatives and not-for-profit organisations being able to undertake business activities as a counter for the profit-driven corporate sector. I was prepared to look at amendments to my bill to allow friendly society pharmacies to operate in the ACT, but basically it got too complicated and I ran out of time. If I am here in the next Assembly I would be prepared to look at this issue again, particularly once the COAG response to the national competition policy review of pharmacists is released, as it is likely to have further references to the future of friendly society pharmacies which made need to be acted on.

I thank members for their support for this legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR MOORE (Minister for Health, Housing and Community Services) (6.00): I move the amendment circulated in my name *[see schedule 1 at page 3719]*.

The explanatory memorandum is on the same page. I believe it deals with the questions that were raised in advice to me over whether or not the legislation breached the self-government act. I believe this amendment will ensure that it maintains its validity under the self-government act.

Amendment agreed to.

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

Bill, as amended, agreed to.

Sitting suspended from 6.01 pm to 7.30 pm

Parental Leave (Private Sector Employees) Amendment Bill 2001

Debate resumed from 8 August 2001, on motion by **Mr Berry**:

> That this bill be agreed to in principle.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (7.33): Mr Speaker, this is a very important issue and the bill complements the government's present policies and attitudes in relation to family friendly and life balance matters. But we do have some concerns about the speed at which this legislation has been brought on and the lack of consultation that has taken place. So it will be the government's intention this evening to support the bill at the in-principle stage and then adjourn further consideration so that appropriate consultation can take place.

Mr Speaker, at present casual employees are specifically excluded from the parental leave provisions in the Workplace Relations Act and most federal awards. The government will be taking action to ensure that the new parental leave test case standard, as provided for in the bill, will be extended to the public sector. Subject to further analysis and policy development, this will be by way of either an award simplification and rationalisation program or an amendment to the public sector management standard.

We believe that the new entitlements for casual employees, the eligibility for which is defined in the legislation, will have a negligible cost impact. But the government believes that it is an important matter and it may have a dramatic impact on ACT business. In fairness to ACT business, in our view an appropriate way forward is for the suggested changes to be progressed by an award variation. The Chamber of Commerce has raised this concern. I think members would have seen documentation in which the chamber suggests that this is not a matter for the ACT Assembly and that it should be left to the tribunals or the judiciary to make sure that these changes are contained in awards. We would be in agreement with that.

In view of inability of members to respond appropriately and intelligently because of the haste with which this legislation has been brought on, we believe that we should agree to the bill in principle and then adjourn debate so that further consultations can take place.

MR BERRY (7.35), in reply: Mr Speaker, nothing surprises me about Mr Smyth when it comes to employee benefits. In 1992 I introduced the Parental Leave (Private Sector Employees) Bill, which took up a 1990 decision of the Australian Industrial Relations Commission covering maternity leave, paternity leave and adoption leave. At that time I said:

> This bill applies the national standard for parental leave to those workers in our private sector who are not covered by awards, or who are covered by awards which make no provision for parental leave and do not preclude such an entitlement.

The parental leave bill that we are dealing with this evening is of the same ilk, but it relates to casual employees. The bill applies to casual employees who are not covered by awards or whose awards do not mention parental leave.

Mr Speaker, if this were not so serious, members in this place would be falling about laughing at the government's position. The fact of the matter is that this legislation applies only to those employees who are not covered by an award or whose awards do not deal with this matter. Mr Smyth says that we do not know what the cost is. Well, there is no cost because they do not get paid.

The minister has taken an incredible position. I should take that back—nothing is incredible for the conservatives, for the Liberals, in relation to industrial matters. They would do anything to stop any provisions flowing to ordinary working people.

I should refer to the recent parental leave agreement negotiated with the Catholic universities. The Catholic universities have agreed to three months leave on full pay; I think to a couple of weeks leave at full pay for male carers; and to 60 per cent of full pay for the remaining 12 months. And here we are quibbling about a leave provision which relates to people who are not covered by awards or people who do not have such a provision in their awards, and it comes at no cost.

In light of such a significant decision as that reached in the Catholic universities case, I feel a bit embarrassed about bringing this matter before the Assembly. I am certain that decision has been the start of the flux in parental leave. This legislation merely catches up with what has been going on in the federal commission in terms of determining standards across this country.

It is shameful that this government should look as though it is dragging its feet, and I want no part of that. I feel embarrassed that we have a minister who would stand up in this place and say that we want to put it off. Mr Speaker, it will cost nothing; it comes at no cost. So the cost would not be worrying to even somebody from a political party like yours, which has strong connections with the business sector.

MR SPEAKER: The Speaker has no view on that, as you know Mr Berry. It is up to my colleagues to make any comments.

MR BERRY: Indeed, Mr Speaker. I do not mean to involve you in the debate. I know that if you wanted to get involved in the debate you would do so. I know from what happened last night that you really want to stay here and listen to the details of this. I know that at one stage you were saying, or made you position known, that you wanted to go home but then I saw you vote to stay here and I thought, "The Speaker loves this." Tonight we are going to charm you again with long debates about important issues.

MR SPEAKER: I doubt it. I just accept my responsibilities, thank you.

MR BERRY: Mr Speaker, this is one of those charming debates, and it is about an important issue for ordinary working people—I have to say that, in the scheme of things, there are not many of them. Mr Speaker, I am amused that the government would take

this position in relation to these few workers, particularly so when full-time workers in the private sector are already covered by legislation which has been passed in this place.

So there can be no excuse to put this off. I just cannot believe that you intend to adjourn the debate. I urge members to support the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1.

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

> That the debate be adjourned.

The Assembly voted—

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

Question so resolved in the affirmative.

MR SPEAKER: I remind members that I do not wish to hear comments, even flippancies—indeed, even amusing ones, which would be rather difficult to make in this chamber—during the call. Could you please answer the call and leave it at that. The question now is:

> That the resumption of debate be made an order of the day for the next sitting day.

MR BERRY (7.45): Mr Speaker, it is open to me to move an amendment to that motion, isn't it?

MR SPEAKER: We have simply adjourned the debate, Mr Berry.

MR BERRY: Well, it is open to me to move an amendment to the motion, isn't it?

MR SPEAKER: Yes it is—it is indeed, sir.

MR BERRY: Mr Speaker, in an effort to get some commonsense into this debate, I will move an amendment to the motion that has just been put before this place. I move:

> Omit "the next sitting day", substitute "a later hour this day"

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

> That the question be now put.

Mr Kaine: What is the motion?

MR SPEAKER: The motion has been put.

Mr Kaine: Mr Speaker, I asked the question—

MR SPEAKER: I am sorry, you cannot debate it, Mr Kaine.

Mr Kaine: Mr Speaker, I asked the question of you because I wanted an answer. I am quite unclear about what Mr Berry's amendment to the motion is.

MR SPEAKER: Thank you, Mr Kaine. Mr Berry has moved that the debate be adjourned to a later hour this day. Mr Moore has moved that the question be put, and therefore that is what we are voting on.

Question resolved in the affirmative.

Question put:

> That **Mr Berry's** amendment be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Debate adjourned to the next sitting.

Legislative Assembly (Privileges) Bill 1998
Detail stage

Debate resumed from 9 December 1998.

Bill, by leave, taken as a whole.

MR OSBORNE (7.51): Mr Speaker, I seek leave to move amendments 1 and 2 circulated in my name together.

Leave granted.

MR OSBORNE: I move amendments Nos 1 and 2 circulated in my name *[see schedule 2 at page 3720]*.

Mr Speaker, these amendments are in line with the recommendations of the Administration and Procedure Committee, which looked quite extensively at this bill. I thank the Clerk's office for their assistance with this piece of legislation.

MR CORBELL (7.53): Mr Speaker, the Labor Party will be supporting these amendments. As Mr Osborne indicated, the amendments are consistent with the recommendations of the Standing Committee on Administration and Procedure report into his Legislative Assembly (Privileges) Bill. Perhaps the most important aspect of his amendments which is worth stressing to members is that the focus of the bill is taken away from privileges and directed at the precincts of the Legislative Assembly building.

The issues relating to powers of committees and the publication of documents have been addressed as a result of the recommendations of the Standing Committee on Administration and Procedure. This bill now focuses predominantly, although not exclusively, on defining the clear authority of the Assembly in relation to its physical location in the building. It focuses on the power of the Assembly and of you, Mr Speaker, to safeguard the building and the operation of the building—the easy, fair and open access to the building by members, particularly when the Assembly is in session but also outside of periods when the Assembly is in session.

Mr Osborne's amendments also address issues such as the status of the car park area adjacent to the building that is used by members. They also deal with measures to ensure that protocols for the management of the executive area located within the building are appropriately dealt with by you, Mr Speaker, and the Chief Minister.

These amendments propose a range of measures. They address the important aspects of the workability of the Assembly as a parliament and its ability to conduct its business freely without interference. That is an important concept which I am sure members will endorse. It is the reason that the Labor Party will be supporting this bill, as amended by the amendments.

MR MOORE (Minister for Health, Housing and Community Services) (7.56): Mr Speaker, the government will also be supporting the amendments, which largely seek to omit and replace the contents of the bill. They also seek to change the name of the bill. I have to say that this is an interesting process.

Amendments agreed to.

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

Bill, as amended, agreed to.

Design and siting controls

MS TUCKER (7.57): I move:

> That this Assembly:
>
> (1) recommend to the Executive, pursuant to subsection 37 (2) of the *Land (Planning and Environment) Act 1991*, that the ACT Planning Authority be directed to review the design and siting controls that apply to residential development on commercial land in local and group centres to ensure consistency with the controls on multi-unit development in residential areas; and
>
> (2) calls on the Government to defer the sale of land in local and group centres, in particular Blocks 21, 23 and 24 Section 44 Kaleen and Block 3 Section 79 Giralang, for residential development until this review is completed.

I put forward this motion today to get some action happening before the election on an issue that is growing in prominence as more proposals arise to sell off or redevelop land in local shopping centres for housing. I became aware of this issue some time ago when a proposal to redevelop the Aranda shops into apartments was announced. This proposal became feasible after variation 64 to the Territory Plan in 1997 which allowed local shopping centres to be redeveloped into housing where it could be proved that the commercial space in the centre was no longer economically viable.

Local residents objected to what they thought was an overly dense development in comparison to the neighbouring houses, and this is still being argued about in the AAT. What became apparent through this process is that, while housing in local centres is now facilitated by variation 64, there are no design and siting controls in the Territory Plan for housing on land zoned for commercial use. Most housing in Canberra is located on land zoned for residential use. Under the Territory Plan the scale of such housing is regulated by the design and siting code in appendix 3 of the plan.

The government recently released ACTCode 2 which will eventually replace its design and siting code. However, the design and siting code only applies to the residential zones. It does not apply to land zoned for commercial use.

The only significant controls on development in local centres is that the plot ratio cannot be more than 2:1 and the maximum height of buildings is two storeys. Theoretically this would allow two-storey building over every part of a block. Unlike the residential design and siting code, there is nothing in the commercial policies about setbacks from boundaries, private open space, vehicle parking and access, external appearance or interface between dwellings. In fact, in the residential zoning the proposed plot ratio in ACTCode 2 is 0.35:1, which is much less than the 2:1 allowed in local areas. In the B12 areas, where two-storey development is encouraged, the allowable plot ratio is only

0.65:1. In the B11 areas, where three-storey development is allowed, the plot ratio is 0.8:1, still below the plot ratio of commercial areas.

I wrote to the Minister for Urban Services about this issue some time ago. The minister confirmed that the Territory Plan does not include a specific design code for commercial areas as it does for residential areas. He justified this on the basis that there is a need for flexibility to encourage mixed use development in commercial areas. This is a fine objective, but the examples we already have in Aranda, Latham and soon, perhaps, Macgregor show that developers are proposing the wholesale change of local centres into housing with perhaps a token shop space left in the corner. These are not what I would regard as mixed use development. They are townhouses and apartments, just as you would find in any medium-density part of Canberra.

The problem is that by not providing clear design and siting guidelines to developers up front, PALM is given too much discretion in what can be approved, thus leading to disputes with objectors down the track and either forcing a long appeal process, as is happening with Aranda, or the minister calling in the application to avoid an appeal, as happened in Latham. To me neither approach is good planning.

Unlike a town centre, local shopping centres are often surrounded by fairly standard single dwellings. The impact of converting a local shopping centre into a new block of apartments, or allowing new apartments next door to a local centre—

MR SPEAKER: Excuse me. Members, could you please keep your voices down. I cannot hear Ms Tucker. She reads such a lot and I feel concerned for her—

MS TUCKER: I don't want to cause a strain, Mr Speaker. You should be quiet. Don't cause the Speaker strain.

MR SPEAKER: I feel concerned about her voice and I would ask you therefore to keep your voices down.

Mr Smyth: Kerrie, you are hard to hear.

MS TUCKER: I'm hard to hear? Well, it's probably because the gentleman on my right is speaking loudly.

MR SPEAKER: Thank you, Ms Tucker. I agree with you.

Mr Wood: You are always hard to hear. So is Dave Rugendyke.

MS TUCKER: Yes, I can see it is a problem for you too. Unlike a town centre, local shopping centres are often surrounded by fairly standard single dwellings. The impact of converting a local shopping centre into a new block of apartments, or allowing new apartments next door to a local centre, is quite different to the impact of allowing such development in the middle of a town centre. Residents who live around a local centre have a legitimate interest in what is allowed to be developed there, and also have a legitimate concern that what is approved is of an appropriate scale relative to their own houses.

I therefore think there is a need for PALM to review the design and siting controls that apply to residential development on commercial land in local and group centres and to propose some controls that ensure consistency with controls on multi-unit development in residential areas. I am not saying that there should be no multi-unit development in local centres, but it needs to be designed in sympathy with its surroundings.

My motion also refers to group centres as I think there are similar issues about the need to set some controls over housing here as well. For example, in the proposed master plan for the Jamison group centre there was a proposal for a high-rise block of apartments which would have been quite out of character with the housing over the road.

The second part of my motion refers to some imminent sales of commercial land in two local centres in Belconnen specifically for housing. One of these, the Kaleen block, is already scheduled for auction in September. I understand that the sale of the Giralang block has already been discussed in the Ginninderra LAPAC but has not yet been advertised. I think it would be better to defer these sales until there is some clarity about what controls should apply to housing on commercial land so that we can avoid the disputes that have arisen in Aranda and Latham.

MR HIRD (8.04): Mr Speaker, I find it interesting, because of my professional background, to hear Ms Tucker say today that in-fill programs are not acceptable. She is going completely against what she said in this place last night. I will remind her. She said that the Greens wanted to encourage people to establish group centres so that they can have developments, so that they can use the public transport system, and now we find she is going against that.

Ms Tucker: I take a point of order Mr Speaker.

MR SPEAKER: Mr Hird, there is a point of order apparently.

Ms Tucker: Yes, I would really like to help Mr Hird. I am happy to read this again so that he understands what I said. He obviously was not listening.

MR HIRD: I was.

Ms Tucker: Would members like me to read it again?

Mr Quinlan: No. Can we adjourn the debate and you and Harold can go out and have a chat and come back?

MR SPEAKER: Sit down. There is no point of order.

MR HIRD: This is typical of a woman, of a person who is trying to hold back any progression, any movement forward. It's always: "I will have to think about it tomorrow," or, "I will think about it next week"; "but we will make a decision today", or "we are not going to". Well, we are going to make a decision and this motion is a nonsense. If my colleagues opposite accept Ms Tucker's—

Mr Quinlan: That woman.

MR HIRD: No, I won't say "that woman". You may well, because you may have to—

Ms Tucker: You have already said it.

MR SPEAKER: Mr Quinlan, please be careful.

MR HIRD: You may well have to court her at the appropriate time after 20 October because on the radio station called 2CC it was said there would be a Labor/Greens minority government. Ms Tucker, the Greens, have not done very much for the progress of development in the ACT. However, it was alleged that it would be a Labor/Greens minority government. You guys came second.

Ms Tucker: Greens were second.

MR HIRD: Yes, Greens were second—a Labor/Greens minority government.

Mr Smyth: It couldn't be a Green/Labor government?

MR HIRD: No, it wasn't. It was Labor/Green. You are quite right, minister.

Mr Corbell: We are very green. Just ask Ted Quinlan.

MR HIRD: Then Ms Tucker sailed straight into our good friend Mr Corbell, who has a lot of sense. So I do not know about Ms Tucker's ambition to be on the treasury bench with the Greens. She then said, "We stand up for the people of the ACT. However, we are going to get Bob Brown," the senator out of Tasmania, "to come in and fight our fight for us." So much for that.

The objectives of the residential land use policies and commercial land use policies are different. The design and siting controls for residential areas are designed to ensure that the scale and character of development are compatible with the surrounding area and does not affect the amenity of nearby residents in an unacceptable manner. Ms Tucker should know that because she is talking about high-rise within the CBD of Canberra and major development areas, and ensuring that buildings and activities will not impact—

Mr Berry: Where is this?

Ms Tucker: Latham. CBD.

MR HIRD: I am not talking about Latham, Ms Tucker. I am talking about your statement last night when you said the inner city areas—

Ms Tucker: Aranda CBD.

MR HIRD: You Greens tend to get off the track

MR SPEAKER: Mr Berry, would you mind sitting down, thank you. I think you want to take a point of order if you stand up.

MR HIRD: You Greens have to realise that when you make a statement in this place—

Mr Corbell: I take a point of order, Mr Speaker.

MR SPEAKER: Order! Mr Hird, you will address this chamber, please, through the chair.

MR HIRD: I apologise, sir.

Mr Corbell: That was my point of order, Mr Speaker.

MR SPEAKER: I thought it might have been, Mr Corbell.

Mr Corbell: Mr Hird should know better.

MR HIRD: It is not often that Mr Corbell catches me out. On this occasion, Mr Speaker, I concede and I apologise, not to Ms Tucker, but certainly to other members of the house, because she misled me last night—

Ms Tucker: Sorry; it's Kaleen CBD and Giralang CBD.

MR HIRD: She misled me last night because I thought the Greens were the panacea of—

Mr Berry: He can't say that. Ms Tucker has never set out to mislead anybody, Mr Speaker. I reckon that's a bit rough.

MR HIRD: I thought she did, Mr Berry. On the other hand, Mr Speaker, commercial centres are about providing a range of services.

Mr Berry: That's unparliamentary. Mr Hird is just trying to bully Ms Tucker. She has never tried to mislead you.

MR HIRD: Yes, she has.

Mr Berry: Well, you can't say that in this place.

MR HIRD: Well, she did to you.

MR SPEAKER: If Ms Tucker feels—

Ms Tucker: Yes, I feel it. Withdrawal, please.

MR SPEAKER: Order! Ms Tucker, what exactly do you feel?

Ms Tucker: I feel he needs to withdraw anything uncomplimentary that he said that I missed. I don't know what he said. If he said I misled, obviously I want him to withdraw it.

Mr Rugendyke: He said you misled him.

Ms Tucker: Well, withdraw it, please.

MR HIRD: What I said, Mr Speaker, was that Ms Tucker misled me by saying that she was of the opinion that in the inner city area she wanted high rise; she wanted development; she wanted people to be able to use cycles and bicycle paths and things like that. All of a sudden she is not of that opinion. That is what I thought.

MR SPEAKER: Just a moment, please. I have to deal with something here. First of all, Mr Berry, your point of order is totally out of order because it didn't relate to you.

MR HIRD: Yes, I agree with that.

MR SPEAKER: However, if Ms Tucker felt—

MR HIRD: The type of residential development—

MR SPEAKER: Just I moment, please. I have not finished.

MR HIRD: Sorry, sir.

MR SPEAKER: However, if Ms Tucker feels that she is offended by you suggesting that she misled you, like some sort of jezebel or whatever, then—

Mr Berry: What was that?

MR SPEAKER: Seriously, if you feel that you have been—

Mr Berry: Take it easy, Mr Speaker. I reckon you had better give somebody else a spell in the chair.

MR SPEAKER: If you seek a withdrawal, Ms Tucker, go right ahead and request it.

Ms Tucker: No, look; I think we should let Mr Hird finish his speech.

MR SPEAKER: Thank you. Order! I am sorry; you are out of order because—

Mr Berry: I was just looking for the standing order "Quit while we are in front".

MR HIRD: As a matter of fact, Mr Speaker, I was going to concur with Mr Berry by saying yes, we are in front, so I will resume my speech. The type of residential development within residential commercial areas is by the very nature of its location different, and therefore it is inappropriate to apply the same design and siting controls. On 1 July this year this government introduced its designing for height quality and sustainability program. This is a major reform initiative with the specific purpose of raising the quality of urban design.

Mr Berry: How old is that prescription? You can have a lend of my glasses. They might work.

MR HIRD: I wouldn't mind that actually.

Mt Stefaniak: Keep going, mate. Don't worry about Wayne.

MR HIRD: New processes now make it mandatory for most developers to prepare a design response report which includes a site analysis plan before a development application can be lodged. This means, Mr Speaker, that design issues are analysed up front and tailored to suite the unique requirements of each site. I understand that Ms Tucker, who I am going away with shortly, does not understand that.

The density of development and its form should reflect its proximity to adjacent developments and uses. Setbacks, heights, types of materials, the scale and massing of the built form—in other words the shadowing for the neighbours—and the landscaping should reflect the local character and establish a cohensive outcome. These elements are significantly different in commercial and residential areas. Ms Tucker has left the chamber, Mr Speaker.

Mr Quinlan: No, she hasn't.

Mr Smyth: No, she hasn't.

Ms Tucker: Hello.

MR SPEAKER: She has, in fact.

MR HIRD: Well, I am looking forward—

MR SPEAKER: Order! May I just draw to the attention of members that the chamber is that area that is enclosed. It is a minor point, but it is still important.

MR HIRD: Thank you, Mr Speaker.

Mr Smyth: Come back to your point.

MR HIRD: I will come back to the issue, as my colleague the Minister for Urban Services points out. Residential development in a commercial area provides an alternative housing choice and rejuvenates the commercial area, which gives business an upward swing. Within a commercial area a residential development provides greater choice for people to work and operate a business from the one site and to take advantage of being located in proximity to adjacent commercial uses. The design elements and principles are different due to the nature of adjacent developments. For example, you would have to consider whether the adjoining use is an access to a commercial loading dock or another residence. So we take these things into consideration. Such issues as noise, service vehicles, deliveries and the like are also very different. They are very important and they must be taken into consideration for those areas.

The application of the residential design and siting policies to commercial sites is likely to give people a false expectation about the level of amenity that it is possible to achieve. This in turn is likely to stifle commercial development. It is necessary to recognise that the overriding policy is commercial, not residential.

PALM has already reviewed the three design and siting codes that apply to residential development within residential areas and has prepared a single integrated code known as the ACT code for residential development. As members would be aware, PALM recently concluded a further period of extensive public consultation on the proposed residential code. It has not done it in isolation. It has done it in the wide area. It has taken the community into its confidence. They are currently finalising the consultation report for consideration by the executive.

PALM has also undertaken a review of the commercial policies that apply to group centres, including a review of residential development within the centres. This proposed policy has been through comprehensive public consultation, Mr Speaker, and has been reviewed by the Standing Committee on Planning and Urban Services, which is chaired by a great bloke. The issue of applying the residential design and siting codes to residential development within a commercial area was not raised during the consultation on the draft variation.

Mr Speaker, this motion is about Ms Tucker's desire to tinker, once again, with a planning system to suit her own ends. In other words, she doesn't make a decision. As I have illustrated, she seeks to do this without any appreciation of the consequences. It is very easy to throw stones without understanding where those stones are going to land and the implications of the throwing of the stones. There are many ways that planning policies can be reviewed. This motion in the dying days of the Assembly should be rejected out of hand, and I urge members to do just that.

MR CORBELL (8.19): If we were in any doubt as to why Mr Hird is the chairman of the Planning and Urban Services Committee, now we know, Mr Speaker. That superb dissertation on planning policy and practice, including the apparent rewriting of the metropolitan structure for the city so that the CBD is now located in Latham, was, I thought, something that did him proud.

The revitalisation of local shopping centres is a key planning issue in Canberra. Labor understands that local neighbourhoods value their shops as a meeting place, as a place for convenient local shopping, and as a focus for the community. Canberra's planned hierarchy of shops has provided, and in many cases continues to provide, an easy and equitable way for local communities to access day to day household needs. They often also serve, of course, as a central focus for the suburb.

Labor is committed to ensuring that neighbourhoods continue to have access to convenient local shopping and that that focal point in the community is maintained. This is, of course, especially important for older people as well as younger people, and many who do not have the convenience of a car. The continued provision of local services also encourages a greater sense of community, less reliance on the motor vehicle and more focus on pedestrian, cycling and on-street activity.

Labor's approach in relation to local centres recognises the community's right to have services provided through local shopping, and we will be supporting this motion today because we believe it addresses a number of key issues which we have already raised in relation to our own policy in terms of reforming the planning process for local centres. Let me outline, Mr Speaker, how Labor's policy is consistent with the objectives that Ms Tucker has outlined in her motion this evening.

Labor wants to establish an independent assessment process to determine the commercial viability of local centres proposed for redevelopment. We want to ensure that that assessment of commercial viability covers the previous three years, not just the previous 18 months as under the current government's policy, and we want to assess multi-unit dwelling proposals for local centres consistently. The only way you can do that consistently is by using the same guidelines which are used for all other multi-unit developments in residential areas across Canberra.

We believe that there needs to be the introduction of a mandatory master plan process prepared by an independent planning authority for all local centre redevelopment proposals. We also believe that the government should require the provision of some affordable housing as part of any local centre redevelopment proposal before remission of taxes and charges is granted.

Mr Speaker, moving to the specific issues outlined in Ms Tucker's motion, the first and key one of those is the application of multi-unit design and siting controls. The revitalisation of local centres should make provision for residential development as part of the redevelopment proposal. This was endorsed by the passage of variation 64 through the Assembly, and it was endorsed, I should stress, by all parties present in the Assembly at that time, including the Greens. Residential development in local centres is not required by the Territory Plan or the guidelines to be in accordance with the multi-unit residential development guidelines which are used for all other multi-unit development in the city. This is the weakness Ms Tucker identifies in her motion.

Currently, residential development controls for local centres allow a much higher plot ratio than that allowed for any other form of multi-unit development in Canberra. This is a loophole and it can lead to levels of density which would be inappropriate for local centres in a low-rise neighbourhood setting. I think it is important to stress that we are talking about local centres sitting in the middle of low-rise residential neighbourhoods.

Labor believes that residents are entitled to see multi-unit development at local centres take place in accordance with the same conditions that apply to any other multi-unit development in Canberra. We believe it is important to support this motion today because ultimately Labor's objective in relation to this issue is to see the Territory Plan amended to ensure that the residential component of local centre redevelopments is assessed in accordance with the criteria used for all other multi-unit developments, the residential design and siting code for multi-dwelling developments or its successor documents.

Ms Tucker's motion also highlights the fact that the government is currently proposing to release for sale a series of blocks in Kaleen and Giralang. The weakness with the government's approach in this regard is that it is releasing these blocks without a comprehensive master-planning approach for the centres where those blocks are located. We believe that this is just indicative of the Liberals' piecemeal and uncoordinated approach to planning and land release.

Planning for the revitalisation of local centres should include a detailed master plan for the entire local centre precinct. Labor believes that that sort of master planning approach would integrate detailed planning for local centres into a broader perspective of

a neighbourhood plan for each suburb. That is yet another Labor policy already available out there in the electorate for people to consider.

We believe that consultation with the owner or owners of local centres is required, along with neighbourhood residents and other community and business stakeholders, in the development of master plans for local centres. We also believe, Mr Speaker, that, where appropriate, the costs of such master plan development should be met by the development proponent. The owner or owners of a local centre should be prepared to meet the costs of the independent planning agency preparing the master plan for the redevelopment of local centres.

Ms Tucker, in paragraph (2) of her motion, calls on the government to delay the release of the land. She does so predominantly for the purpose of reviewing the multi-unit site design and siting controls. Labor will support the motion not only because it allows for that loophole in relation to multi-unit design and siting to be addressed, but also because we believe that if you are going to be releasing land contiguous to local group centres it should be done in a coordinated manner as part of the broader master plan for the whole centre rather than in a piecemeal manner.

Mr Speaker, these are the fundamental issues that Labor sees in this motion. These are the reasons why we believe this motion should be supported today.

I will add one other point before concluding. We have not seen this government address one issue in relation to residential development at group centres, which is the provision of residential accommodation in an affordable manner. We need to encourage a broader range of dwelling types which meet the diverse needs of a neighbourhood population, and we need to make sure that a proportion of that accommodation is affordable.

There has been in the past a series of incentives to encourage local centre redevelopment through remission of change of use charge, along with the remission of other taxes and charges. Labor believes that if this approach is to be continued in the future there should be a requirement that, as part of the guidelines for the assessment of development proposals for local centres, there should be a condition that guidelines on the provision of affordable housing options in local centres are met as part of the remission of such taxes and charges.

It is a good idea to have a proportion of residential development in local centres, particularly those that are needing revitalisation, but it is just as important to make sure that people on lower incomes have an opportunity to live close to places where there are services, facilities, shops and other activities that allow them to continue to contribute in the community and to have fair access to those services.

Mr Speaker, the Labor Party will be supporting this motion today because it does set out, broadly, objectives that the Labor Party has already signalled need to be addressed, and which we announced a policy on about three months ago.

MR STEFANIAK (Minister for Education and Attorney-General) (8.28): I do not know whether Mr Corbell was in this Assembly when we first grappled with the very real problem of declining patronage of local centres; not the group centres so much, but the local suburban shopping centres. The then government, the Carnell government, in about

1995 or 1996, introduced a controversial measure. We restricted the hours of operation of the larger centres in an effort to help the small centres that were going out backwards.

I fully supported that proposal, Mr Speaker, and I was a little disappointed when we bowed to community pressure and the overwhelming number of people, about 85 per cent of our population, who did not like that idea and wanted to have unrestricted access to the major centres and the group centres. But we adhered to community wishes, and that is what democracy is all about, and towards the end of the last Assembly that decision was reversed.

It was interesting that during the moratorium there was about a six per cent increase in the number of people going to the local suburban shopping centres. That was all. There was a minority government, the Carnell government, in the Third Assembly then, and, despite the very best efforts of the majority of the Assembly, people still voted with their feet. They liked going to the malls and the group centres. The little suburban shops did not get the level of support that even that measure would force upon them, so we came up with our local centre plan.

I am amazed at the Greens, really. Mr Humphries made a very valid point, I think, yesterday. The Greens talk about sustainable development. They talk about the need for urban infill. Yet in this Assembly they have opposed every single proposal for sensible urban infill. In terms of paragraph (2) of the motion, I think this is another example. You really cannot have it both ways. Something has to be done for those little local suburban centres that are dying.

I have lived in a couple of small suburbs with local centres since I have been an adult. From 1979 until about 1993-94 I was in Rivett. When I went there in 1979 there was a vibrant little shopping centre with about six or seven shops—a service station, a pharmacy, a butcher's shop, two supermarkets, and a couple of other shops. By the time I left at the end of 1993 it was down to two shops plus the service station. I think the service station has closed since.

When I went to Macgregor there were two and a bit shops. I would go down to the Butts-'N'-Brew supermarket to get stuff and half the time it was closed. There was a hairdresser shop there, and for a little while there might have been a little takeaway shop, but that did not last long.

I think Mr Rugendyke has been to a couple of meetings on what to do with Macgregor shops. Currently I think there is a hairdresser there occasionally. The Butts-'N'-Brew has closed. The doctor who is there is really concerned about vandalism and the fact that there is no shopping centre there anymore. Frankly, unless something happens to that shopping centre he is going to walk. The people in my suburb, many of whom are underprivileged, or do not have access to cars, or are on pensions, or live in government housing or other housing, or do not have the wherewithal to travel, are going to miss that service. Basically, that shopping centre has died.

We, as a government, in the Third Assembly, tried to do something about it. I will not criticise Mr Corbell because I think he may not have been in here when we introduced that. We tried to do something about it. What we did was not popular and accordingly,

after that trial period, I think in 1997, we reversed that and got rid of the moratorium and restriction on shopping centre hours.

Something does have to be done for small suburban shopping centres. I think Dave was there and we went through a fairly laborious process in which a lot of potential plans were put up. There were about four for Macgregor. They were good sensible urban infills, with some residential development, provision for a shop or so, and provision for the doctor's surgery to stay there. The planners were open to all sorts of ideas. I thought that was a very practical way of doing it.

I must commend PALM. PALM is always the meat in the sandwich. It always attracts a lot of criticism. I think the officers of PALM and the people there did a wonderful job in trying to extract from the community what they wanted and facilitating discussion. I commend the officers there. I have been critical of PALM in the past, and I will be again probably, but I think they were trying their best in that process.

I have been to a couple of other meetings, Mr Speaker. I went to Jamison not all that long ago. I do not think Dave was there the time I went. He might have been there on a couple of other occasions. There were a couple of comrades from the Labor Party there who are not in this Assembly. They apologised to me later, and said, "Look, that meeting was a bit over the top. We are not that anti-development. Some of those people are over the top." I told them I did not think the people were over the top.

I thought it was one of the best meetings I had been to. It was a big meeting, attended by 250 people, virtually all of whom were very much in favour of the residential development proposed around Jamison. They had some very sensible ideas on what else should happen, including things like not putting a connection road with Belconnen Way within about four or five metres of the nets at the tennis court. I would remind Ms Tucker about the western route in terms of being about 70 metres or so from the dormitories of the AIS. Anyway, the PALM officers graciously said they would not do that. They accepted the will of the meeting there, and I thank them for that. It was a very good meeting in terms of what should happen. I was delighted that the majority of the people there were very keen to see sensible residential development around the group centre at Jamison.

You cannot get away from the facts, Mr Speaker. Over the last 20 years or so many of our local suburban shopping centres have been dying or have died, as, sadly, is the case of my suburb. It is important, I think, that we have sensible infill, sensible planning, which will enable residential development where appropriate. I do not think it is something we can defer indefinitely.

I am amazed at the Greens for their hypocrisy in terms of wanting sustainable development, yet effectively pushing everyone out into greenfield sites, with all the problems that are associated with that in terms of transport, and voting against or rejecting every sensible bit of residential development around local shopping centres. I do not think this should be delayed any further, Mr Speaker.

I commend my colleague the Urban Services Minister and his department for what I think has been good, sensible and sensitive discussion with the community. The groups who go out—I know they are basically the same people—are very competent people, and

I want to place on record my appreciation for the way they have handled it. I think they have done it very well. I think that is something we need to continue.

You cannot reverse the march of history, I suppose, even though it is only in relation to two local shops. If people are not going to patronise those local shops, nothing we can do—and we have tried—is going to change that. We do not want a whole lot of derelict buildings there for vandals to wreck and destroy and cause problems in the local area. If we delay this any further we are not doing the right thing by the suburbs that are affected. We are not doing the right thing by the people at Kaleen or the people at Giralang.

MR KAINE (8.37): At this stage in this debate I am not convinced either of the merit of what Ms Tucker is putting forward or of the opposing position being taken by the government. We are talking about local shopping centres, but I notice that Ms Tucker's motion draws a comparison between residential development on commercial land in local and group centres and multi-unit development in residential areas.

I do not know what the differences are but, on the face of it, there are differences, and Ms Tucker is saying that there ought not be. I think what she is saying is that those rules that apply on multi-unit development in residential areas ought to equally apply on commercial land in local and group centres. I think that is the sense of what she is saying. There appears to me to be some logic in that.

Mr Stefaniak just pointed out the problems of maintaining the viability of small shopping centres. This is not a new problem. It has been on the agenda for years and we have struggled with how to maintain these small local shopping centres. There have been all sorts of proposals put forward. Some of them work and some of them do not. I am not too certain that we can make a standard rule that applies to all local shopping centres anyway. There is a big difference, for example, between the Aranda shopping centre and the Macgregor shopping centre. They are two totally different propositions. What might satisfactorily apply in terms of building density and the like in one would be totally inappropriate in another. I suppose it comes down to whether or not the people who live near the small local shopping centres want to maintain the shopping centre.

I had complaints about the density of the proposed redevelopment of Aranda. I used to live 200 metres from the Aranda shopping centre. It is only about three shops anyway and there are enough car parks there for about 12 or 14 cars. So there is not much scope for changing the density because if you boost the density of the buildings you immediately run out of car parking space.

The question is how many of those people who live near the Aranda shopping centre shop there anyway? My guess is that most of them go to Jamison or somewhere else. The range of shops at Aranda is so small that there is not much attraction. One might argue that the Aranda shopping centre is one that is past its use by date. There might be the odd person who says, "I live next door and I duck into the shop," but I am not clear on how much custom they get.

It is a vexed question. The Minister for Urban Services might explain why there is this different set of rules for commercial land in the local shopping centres and multi-unit developments in residential areas. Why does the government implement different

standards? On the face of it that does not seem to be logical, and I think that is the problem that Ms Tucker seems to be addressing, by and large.

I would like the minister to explain to me why there is the necessity for the variation in the approach, depending on location, and just how many local shopping centres would benefit from the higher density that seems to be permitted? In what way does it make them more viable as opposed to making them less attractive? You put lots more people in there, but then the centre becomes unusable because there is not enough car parking space or the shopping facilities are not enhanced. You just put more people in there, and the shops are all on the verge of closure anyway because they have not got a large enough client base.

I would like to hear some comment from the minister. At the moment I think there is some logic to the position that Ms Tucker is putting in this motion. Unless the government can convince me that she is wrong, I think I am going to support her. I am not particularly comfortable with that position because I do not think I know enough about it.

MR RUGENDYKE (8.42): Like Mr Kaine, at the moment I am not sure which way to jump on this issue. I am not sure what Ms Tucker is attempting to fix. I am not sure why Giralang and Kaleen are specifically picked out here. From my point of view, what needs to be fixed about group centres and local centres is an appropriate application of existing measures. Draft variation 64 has a lot of apparent loopholes and anomalies, and it has been appallingly managed by the government.

It is a variation that, as we heard, was supported by all parties some time ago. The Planning and Urban Services Committee of this Assembly has taken a monitoring role over the application of variation 64. We have seen Latham shopping centre go through that process. We are seeing Aranda shopping centre go through that process. The loopholes and the anomalies have created enormous problems for both those shopping centres, and they are different problems.

Another tool that PALM has that causes me concern is the B11 draft variation, the fine print of which we now find is able to creep out into the suburbs. I do not recall that being mentioned by PALM in our inquiry on B11, which was thought to be applicable only to Northbourne Avenue and a couple of blocks either side, but we see it somehow being able to be used in Narrabundah.

The third tool that I think needs to be looked at is the master planning process. I admit that it has taken me about three years as a member of the Planning and Urban Services Committee to realise that the master planning process has been deliberately engineered to completely sideline the Planning and Urban Services Committee. I apologise to members because I failed to notice that in three years. I am embarrassed about that.

One of the first inquiries about group centres involved Kippax, and a master plan appeared there. At the time I had no idea who created it, what its purpose was, or what notice we take of it. As it turns out, this master plan for Kippax was created by a proponent of a particular development that effectively eliminated other proposals for the Kippax area, and that caused our committee an enormous amount of grief. This mysterious master plan was able to completely favour one proposal to the abandonment

of all other possible proposals. It was not until quite a long time afterwards that I thought, "Hey, wait a minute. The proponents created this thing. Why hasn't PALM been the initiator of this master plan for the group centre?" As I said, these master plans were deliberately engineered to completely sideline the planning committee.

In more recent times the Jamison group centre master plan has appeared. Once again, there was absolutely no reference to our committee. Members of my electorate rang me and said, "Hey, Dave, why are they building an 11-storey block of units across the road from me? Why are they going to make a road from Bowman Street, behind the pool, across to Belconnen Way?" I said, "I am blowed if I know. I don't know what you are talking about." Then I found the master plan and there it is—an 11-storey building. Who was it drawn by? The developer. Not PALM.

I went to a couple of meetings in Jamison where someone—I think it was a landscape architect—obviously made a squillion dollars on the consultancy to fuss about the pot plants and the seats around the outside of the Jamison Centre; how to pretty up the walls; how to make it look like the footpaths are neater. But it was nothing to do with Jamison Centre because the Jamison Centre is owned by a private developer. All the government can do is pretty up the outside of it. What a farce that turned out to be. When I went to that meeting I thought it was a meeting for the Jamison Centre as a whole, but no, it was just to hear about this landscape architect's lovely drawings. Once again, the Jamison Centre master plan turned out to be something that came nowhere near our committee.

There was no master plan for the Aranda shopping centre. There was no master plan whatsoever. So the developer was able to plan, build and develop something totally out of sync with what anybody in the community would like to see. It is currently before the AAT, so I do not know what is going to happen there.

Mr Speaker, these three planning tools, draft variation 64, B11 and the entire master planning process, have been a disaster. But, looking back to the motion, I am not sure that the motion as it stands will do anything to improve the application of these three things. I am not sure that the minister should be given the go-ahead to sell these blocks of land without master plans.

At the moment I am a bit like Mr Kaine. I could vote either way. I look forward to the minister's argument about how he thinks he should be able to sell these blocks of land in my electorate, whether or not there will be master plans before the development, and whether or not the master plan for these areas will come before a planning committee of the next Assembly. I do not know.

I look forward to the minister's argument for not supporting this, and I look forward to Ms Tucker's closing speech to rebut whatever is said.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (8.52): Mr Deputy Speaker, I will commence by addressing some of the issues raised by Mr Rugendyke because it is important to put in context where the master plan stands. I have no difficulty at all with master plans going to the urban services committee. They can see them all if they want to. They have requested to see some, and they have looked at some in the past. If that is what they wish to do then that would be fine.

We review the various sections of the Territory Plan. Part A of the Territory Plan has recently been to the urban services committee and it has raised some issue about where section master plans do fall. It has asked that they be taken out of Part A and be addressed in other locations. I am comfortable with that concept as well, and Mr Rugendyke will get formal notification of that soon.

In regard to the master plans, if I may take Jamison, for instance, as a single example, PALM has done the master plan for Jamison. They have employed a consultant on their behalf to do the master plan. It is PALM's and the government's master plan. They have put a number of ideas on paper for people to look at. Some of those will survive, some of those will not. But that is the whole point of a master planning exercise where you involve community consultation. You put forth some ideas that the community may amend. They may like them; they may change them; they may keep them; they may discard them.

Mr Rugendyke: They don't get to change much.

MR SMYTH: We have had a number of meetings where changes have been made. There will be an update out next week, and I look forward to sending Mr Rugendyke a copy.

In regard to master plans and where they sit, that is to be decided in the context of the Territory Plan. I have had several discussions with the chairs of the LAPAC, for instance, as to where they think the master plan should sit. We hope to clarify that in the future.

Ms Tucker has recommended that the executive direct the ACT Planning Authority to review the design and siting controls that apply to residential development on commercial land in local and group centres to ensure consistency with the controls on multi-unit developments in residential areas. She has also recommended that the sale of land for residential development within these centres be deferred pending the outcome of a review.

The government does not oppose a review of the conditions proposed to apply to the release of the blocks in Kaleen and Giralang referred to in Ms Tucker's motion. Such a review would ensure that references to the multi-unit design and siting code are appropriate in the circumstances. However, the government does not support the suggestion that all residential development in all group and local centres necessarily be consistent with all the controls applying to multi-unit development in residential areas because, clearly, commercial and residential areas are different and they serve different functions.

The Territory Plan provides for a hierarchy of commercial centres across Canberra to offer residents convenient access to goods, services and facilities. Mr Kaine pointed out the difference between the way in which we use our local centres and the town centres. That is part of the dilemma, as was so well pointed out.

Group centres provide opportunities for major weekly shopping and other retail and commercial development to serve the respective needs of their catchments. Local centres provide a focal point for surrounding communities, and principally serve local convenience shopping needs. The Territory Plan encourages a wide range and mix of uses in these centres, including providing opportunities for residential development.

The broad range of permissible uses within the centres enable them to adapt to changing economic, retail and local circumstances. The provision for residential development not only contributes to the adaptability but also provides greater choice for the community in terms of housing options, and, in some cases, will reduce the need for car travel and create safer and more vital environments within the centres. This is what it is that we seek to achieve. Part of it is to actually create activity; to create a sense of life in some of these centres; to give them a certain density, a certain mass. We know that activity attracts more activity. Where centres appear lifeless, they wither and die simply because nobody wishes to go there.

As part of our efforts we enable sidewalk cafes, for instance. We make sure that future developments in the malls, the town centres and the group centres have active shop frontages that generate activity and provide security. Areas that are under observation and are well lit and maintained tend to be safer, and therefore they enjoy more visits.

It is important to emphasise that the living environments created within commercial centres are therefore different from the environments within most residential areas. By their very nature, that must be so. Commercial centres, by their nature, are areas where activity is facilitated and encouraged. We want people to congregate at these places. People who choose to live in a commercial centre environment know that and recognise it when they do so. Indeed, they choose to live there because of the very nature of access to transport or a cafe. That is what they are after.

A policy framework that requires residential area-type standards to apply in commercial centres potentially has the effect of diminishing the density, that level of activity, and therefore sterilising the use of the land for commercial purposes, thereby depriving the surrounding community of a high standard of access to goods and services. Not to understand that commercial centres have different needs, and to insist that they comply with the residential codes, may well be their death knell.

Rather than applying residential codes in a blanket fashion to residential development in a commercial area, design and siting requirements are more appropriately dealt with on a site by site basis and incorporated into the lease and development conditions for each individual site. Such lease and development conditions can make reference to aspects of the residential design and siting codes where they are relevant. You need to look at the nature of each site to make sure that you match lease and development conditions in order to give that site the best possibility of surviving into the future, rather than draping it with the multi-unit development code from residential which may in fact be its death knell.

The conditions applying to the release of the blocks in Kaleen and Giralang referred to by Ms Tucker already make reference to aspects of the multi-unit design and siting codes. I would be happy to instruct Planning and Land Management to review those conditions to ensure that the references are appropriate before the land is sold. However,

the government does not support a change to the policies applying to group and local centres that would require all residential development in those centres to comply with all aspects of the control and design and siting codes applying to residential areas.

The centres, as I have pointed out already, are not residential. Such a change is unnecessary and it is undesirable in terms of the consequences it would produce. We need to protect our commercial centres and encourage them to provide as wide a range of facilities and services as possible to the surrounding community. At the same time, we want to encourage more people to live within and around our centres. However, this latter objective should not be at the expense of the fundamental reason for providing land for commercial development.

For these reasons the government opposes the motion. However, it will instruct Planning and Land Management to review the lease and development conditions for the blocks referred to in order to make sure that they contain the appropriate references to the relevant requirements of the code.

Mr Deputy Speaker, the release of such sites is carefully considered. The sites in both Kaleen and Giralang are considered suitable for housing built to adaptable and accessible standards. The release will allow people to obtain housing close to facilities without having to leave their existing local areas. In fact, the Kaleen site was identified as a site for older person's housing in the government's July statement on older person's initiatives. To delay or withdraw sites such as these will deny the government's ability to meet the community's demand for such sites as demographic changes drive the need for different types of accommodation.

The passage of this motion will also undermine the implementation of master planning work recently undertaken, involving extensive community consultation in places as diverse as Macgregor and Kambah local centres, for which there is strong community support. The passage of the motion would also delay further, and may even compromise, the release of the Nicholls local centre site which is being eagerly awaited by the local community.

Mr Deputy Speaker, it is considered that the careful mix of residential use in commercial centres will lead to more sustainable and vibrant community facilities, and enable community concerns about failing or failed centres to be addressed. The government will be opposing the motion.

MS TUCKER (9.03), in reply: I am happy to explain to Mr Rugendyke in particular. He wanted me to explain more fully, and obviously I need to clarify a couple of misunderstandings for Mr Hird. He was quite excited at the time that he was speaking so I did not want to deal with it at that point. Hopefully he has settled down a bit now. He seemed to be under the impression that the Greens had opposed every development. I think I heard Mr Stefaniak say that too. That is actually misleading the house. It shows me that Mr Stefaniak does not understand the land act. As Mr Corbell said, it is very worrying that Mr Hird has been chairing the Planning and Urban Services Committee, considering some of the statements he made. For Mr Stefaniak's information as well, we do not deal with most medium-density developments in this house. They mostly just occur. The ones that come up here are usually contentious—

Mr Hird: Mr Deputy Speaker, I raise a point of order. I have a long relationship with the procedures in this place and I may have erred. If that is the case I apologise to the member. I withdraw any inference in respect to her understanding of the planning issues in this great territory.

MR DEPUTY SPEAKER: Well, thank you. I am not sure that that is a point of order.

Mr Hird: I know, but I wanted to say it.

MR DEPUTY SPEAKER: We thank you for that, Mr Hird.

MS TUCKER: Well, that is one statement made in excitement that has been withdrawn, and I appreciate that, Mr Hird.

Mr Hird: Thank you.

MS TUCKER: I am waiting for the Speaker to come down and withdraw one of his excited statements now.

On the question of medium-density development, most of it has occurred without it coming here. The Greens have not opposed it. I have given a lot of detail in this place on several occasions. I have explained the Greens' planning policy. I have explained where we think it is appropriate to have increased density and why. I have explained very clearly that the environmental imperatives related to increasing density have to be balanced with neighbourhood amenity. We see that increased density is focused around the major centres and that, if you like, you see it as a landscape, with the level and density decreasing as you move away from those centres, facilities and public transport options.

In this motion what I am dealing with is the fact that there is basically a loophole or an anomaly in how we determine density in particular areas. I did say in my speech, and Mr Rugendyke might like to listen to this—

Mr Rugendyke: I am listening.

MS TUCKER: Mr Rugendyke is listening. At the moment the plot ratio is 2:1 in these shopping centres and the maximum height of the building is two storeys. This could basically allow a two-storey building over every part of the block. If you compare that to the plot ratios in the other areas, some of which Mr Rugendyke said he was worried about, it is really interesting. The proposed plot ratio for residential zoning is 0.35:1, which is obviously much less than 2:1 which is allowed. In B12 areas, where two-storey development is encouraged, the allowable plot ratio is only 0.65:1, and in the B11 areas, where three-storey development is allowed, the plot ratio is 0.8:1, which is still far below the plot ratio of commercial areas.

Mr Stefaniak talked at length about the demise of local shopping centres. I am not disputing that local shopping centres are losing their vibrance, and we were interested in the government's idea of revitalising local shopping centres. But, as Mr Rugendyke knows well, and as he said, there have been real problems about how that has happened.

I remember, Mr Rugendyke, when you and I were at Latham at a public meeting two or three years ago, that you stood up and you said to the crowd, "We don't just want to see pavement and buildings in these areas." You said that, and that is what this motion is about. It is not saying that we cannot have residential development at an increased density; it is saying that the plot ratio of 2:1 is inappropriate. Mr Smyth seemed to be saying that if you are going to live there you cop it. If you are going to live there you cannot expect to have the amenity that other people have. Well, that is a very unsatisfactory response from the minister.

I want to point out what the motion says. I wondered whether Mr Stefaniak knew what the motion was. My motion is not saying that we cannot look at having some residential development in the local areas. What my motion says is that the ACT Planning Authority be directed to review the design and siting controls that apply to residential development on commercial land in local and group centres to ensure consistency with the controls on multi-unit development in residential areas, and we call on the government to defer the land—

Mr Stefaniak: Which one have you supported though, Kerrie?

MS TUCKER: You are supporting that?

Mr Stefaniak: No, no; which development in the local centre have you actually supported? That is my question.

MS TUCKER: I am calling for it to be reviewed. You can have a look at the notice paper, Mr Stefaniak.

Mr Stefaniak: Tell me.

MS TUCKER: I have written it. I have read it. We are recommending to the executive that the ACT Planning Authority be directed to review it because, as I pointed out at length in my speech, it is not appropriate to have that plot ratio applied to residential development. In the second part we call on the government to defer the sale of land in local and group centres, in particular blocks 21, 23, and 24 section 44 Kaleen, and block 3 section 79 Giralang, for residential development until this review is completed, and I explained why in my speech.

I think it is really a clear case of having respect for the fact that you have to have sensitive development. That is what the Greens have consistently said. It is what Mr Corbell has said the Labor Party is recognising. It is what the community is saying loudly. It is why we now have people running specifically on planning issues in this coming election, because they see that the government, this government, has not done that. This government has taken an approach to development that is not considered and does not take into account community values.

All I am asking for is that the revitalisation of those local areas is done in a sensitive way, and that we review what is basically an anomaly. It is a perfectly reasonable thing to be asking for, and I hope members will support the motion.

Question put:

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

The Assembly voted—

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

Question so resolved in the affirmative.

Ms Tucker: I would like to raise a point of order. In the previous debate the Speaker called me a jezebel. It has offended a lot of people in this building, and I ask that he withdraw it. I think it is particularly interesting in light of the fact that we nearly had a whole censure motion in this place on an alleged statement, and jezebel is not a particularly complimentary term if you look at the definition of it: shameless; profligate; puts bright colour on face. I think it is very inappropriate for the Speaker of this Assembly to be stepping out of the dignity of his position in that way, and I ask him to withdraw it.

MR DEPUTY SPEAKER: Mr Cornwell, would you like to respond?

Mr Cornwell: I am happy to withdraw.

Ms Tucker: Thank you.

MR DEPUTY SPEAKER: Thank you.

Road Transport (Safety and Traffic Management) Amendment Bill 2001 (No 2)

Debate resumed from 22 August 2001, on motion by **Mr Rugendyke**:

> That this bill be agreed to in principle.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.16): I am pleased to see that Mr Rugendyke has maintained support for vehicle seizure provisions as they apply to burnout offences. The government has also continued to support such provisions over a series of Assembly debates.

The vehicle seizure issue was considered as part of the 1999 inquiry by the Standing Committee on Planning and Urban Services into racing and burnout legislation proposed by Mr Rugendyke. The committee's recommendations and the government's response to the committee's report both supported Mr Rugendyke's legislation, with some minor

amendments. Burnout legislation was then passed by this Assembly in December 1999 and incorporated into the then Motor Traffic Act 1936. The legislation has been very effective as a deterrent and in the few seizures that have taken place.

The matter was put before the Assembly for a second time in February 2000 to enable the provisions passed in December 1999 to be incorporated into the new road transport legislation. This legislation was due to commence and did commence on 1 March 2000. In that instance the amendment bill was again put forward by Mr Rugendyke, and again the government supported the proposal.

The burnout provisions, including those providing for the seizure of vehicles, were passed for the second time by the Assembly. Unfortunately, amendments put forward by Mr Hargreaves to the government's road rage bill in May 2001 omitted the vehicle seizure provisions as they applied to burnouts and street racing offences. This was despite the recognised success of the provisions, with the police noting a reduction in burnout activities due to the threat of immediate seizure of vehicles used in the commission of burnout activities. Mr Rugendyke's bill reinstates provisions that were passed by the Assembly twice prior to their omission in May 2001.

During the period the vehicle seizure powers were in place, they were used with appropriate discretion, with 16 vehicles being seized over a 16-month period—one a month. The impounding vehicle provisions proved very effective in deterring burnout activities, and they are essential elements of the overall package of burnout legislation.

With the vehicle seizure provisions, persons who wish to engage in prohibited behaviour are very aware of the possibility of losing their vehicle and are strongly discouraged from prohibited areas. Allowing a police officer to remove a vehicle from the offender immediately addresses safety and other hazards caused by activities such as burnouts and racing.

The ACT police consider that the burnout problem is returning to its previous level as anti-social drivers now realise that the vehicle seizure threat has been removed. The number of complaints from members of the public and the presence of new black tyre marks at Canberra intersections suggest that burnout activity is once again becoming a problem.

The government strongly supports the reinstatement of the provisions giving the police powers to seize a vehicle used in a burnout or street racing offence. The provisions that provide protections for people affected by vehicle seizure—sections 10C, 10D, 10F and 10G—also need to be reinstated to ensure these protections continue to apply if a vehicle is seized by a police officer. Similarly, section 10I is to be amended to include a reference to vehicles seized by the police under section 10B (1) (a). This will ensure that a proceeding cannot be brought against the territory or the police if a vehicle is impounded under section 10B (1) (a).

The government is in favour of this bill. We have voted for these provisions three times. We have been successful twice. I hope we are successful again tonight, because this bill will make our streets safer.

MR HARGREAVES (9.20): We have heard this argument before. One of the arguments put forward by Mr Rugendyke was that when the road rage legislation went down there was an inadvertent effect. It was not an inadvertent effect. The minister said to me prior to the vote, "Do you realise what you are doing? You are going to affect the burnout legislation." I said, "Yes, we do realise what we are doing." And I made mention of it in the speech, I believe, although I could be wrong on that.

The Labor Party does not condone burnouts. The Labor Party would be quite happy to see the full weight of the law as it exists applied. Burnouts are driving in a manner dangerous. Police have the power to book people for driving in a manner dangerous. They have the power to book people for reckless driving, careless driving and driving over the speed limit. They have sufficient powers already.

We do not mind if this offence is elevated to an offence in its own right. But the laws of natural justice have to apply. Essentially, the judiciary should have the right to impound property. They have to give an order to that effect. Police are informants to the court. They are not judge, jury and executioner.

The government wants to bring forward legislation addressing on-the-spot fines. That is fine. Let us have a look at it. The government want to tell the police, "Go hard on it." That is fine. Let us do it. Let us all back it. There is not a problem with that. We have a problem with the fact that within 10 days a policeman, if he believes on reasonable grounds that you have done a burnout, can come to your house and knock your car off. That is not on.

What is inconsistent is that Mr Rugendyke is saying that we made a mistake when we did the road rage bill, but he has accepted the will of the Assembly on the road rage bill. He might not like it. Neither would the Attorney-General like it. But the will of the Assembly was accepted. Otherwise Mr Rugendyke would have brought on another bill about that. He has not.

The road rage bill required that the police officer had to see something happen. It is okay that we just let that one through. But now Mr Rugendyke wants to reinstate the provision that a police officer need only believe something has happened. Within 10 days he can knock your car off. On top of that, the provisions indemnify the police. If they impound your vehicle and somebody gets into the police yard and trashes it, the police are not liable for that. That is my understanding of the provisions.

We oppose this bill on the fundamental principle that the imposition of a penalty should be done by the judiciary, especially when it comes to the withdrawal of property. You might recall that we were not happy about the legislation knocking off people's stereos. That was stupid as well.

On-the-spot fines are quite different. If you are caught speeding, you get an on-the-spot fine. Nobody has any problem with that. You are caught in the act. But here we are talking about somebody believing something has happened. That is just not on. If the police have a good enough case, they can put it before a magistrate, and the magistrate can impound the vehicle. We are very happy about magistrates impounding vehicles. That is where the penalty should rest.

We have gone over this again and again. This is the third time we have gone over it. What part of "no" does Mr Rugendyke not understand? What is it about the will of the Assembly Mr Rugendyke does not understand? It is crystal clear that there is a fundamental issue of principle. He is going to dress it up and say that we do not trust the police. Of course we trust the police to do what they are trained to do, and that is to provide the facts to the judiciary. If the facts are strong enough, the judiciary will act and impose a fine, remove your licence, impound your car or do virtually anything they want. But that is the judiciary. That is the separation of powers.

If Mr Rugendyke does not have faith in the judiciary to do that, then let us see some legislation or see some media stunts by him to start pressurising them to get hard on it. There is no need for the police to impound a vehicle on a suspicion or belief that something has happened. If you cannot provide the information to a magistrate, then you should not be taking action against an individual.

For the third time, I recommend to the Assembly that we vote no to this bill.

MR STEFANIAK (Minister for Education and Attorney-General) (9.26): Some time ago we passed this legislation and it worked for a while. Then something happened to it and the police could not impound vehicles. I was interested to hear the comments made by my colleague the Urban Services Minister that offences have increased now that offenders realise that there is no confiscation, no deterrence.

Deterrence is a very important factor in something like this. It provides for a measure of safety. It is not as if people cannot get their vehicles back. I have had a quick flip through Mr Rugendyke's bill. There are procedures whereby people can get their vehicles back. They are not impounded forever. I would like to hear of any instances of vehicles in custody being damaged and there being a problem as a result. I do not think anyone has given evidence of that. It is not a huge impost on a defendant if their impounded vehicle is returned to them in a worse state than when it was taken from them. If this does the job, with the relevant checks and balances which seem to be in the bill, which I thought we had passed 18 months ago, what is the problem with that?

Mr Hargreaves said that police could use the dangerous driving laws. I have been around the courts a long time, both as a prosecutor and as a defence counsel. Often it is easier said than done. Driving in a manner dangerous is a serious offence. You have to prove that beyond reasonable doubt, and rightly so. It may not be applicable here.

My understanding is that when this legislation was introduced initially and the impounding provision was implemented we saw a dramatic decrease in the number of burnouts. Burnouts pose a very serious danger to citizens watching—life threatening in some instances, from what I can gather, if I believe newspaper reports, which I take with a grain of salt. A motor vehicle weighs a tonne or more. If it is driven erratically around the roads and there are a lot of people around, the potential for serious injury or death is very real.

I do not have a huge problem with saying to a person—and often we are dealing with a young person—"If you do this, you are going to have your vehicle taken away for a period of time. You will eventually be able to get it back, but because you have transgressed you are going to be without it for a while." That is a very salient message to

bring home to people the danger of their actions. I wonder why we are being so cute about that.

It seems that Mr Rugendyke's bill provides a real penalty, a deterrence. It is not something that is going to continue forever. People get their vehicles back. It brings it home to people that there is a consequence to their actions. Mr Hargreaves misses the point of deterrence. I have seen deterrence work in this place occasionally. For example, when a member is suspended by the Speaker for three hours, their attitude improves immensely. They tend to be a lot more cautious, because they realise that if they keep transgressing the result will not be something they want to see.

This bill does not take away a vehicle for a huge length of time. It is not the case that people will not get their property back. It seems to have worked. My colleague the Urban Services Minister says that now that this provision is not in operation—

Mr Hargreaves: Where is the proof?

MR STEFANIAK: I am only going by what my colleague tells me, Mr Hargreaves. He indicates that offences are on the rise again, because defendants are aware that the deterrent effect has gone. The thing that really hurts them—having their vehicle taken away—is not there. Have regard to basic nature, Mr Hargreaves. Have regard to the fact that this is not fatally difficult for people who commit these offences. It is not as if they will never get their cars back.

Mr Hargreaves: You are wasting police time. You are wasting half a day of their time.

MR STEFANIAK: Mr Hargreaves says it is wasting police time. I query that. Maybe that is not a valid consideration. The police are there, as you rightly say, to bring offenders to court. That is their job. I suppose needlessly wasting police time if it could be done better is a factor. If it needlessly wastes the time of police when they could be doing other things, I suppose that is a factor, Mr Hargreaves. If that is the case, maybe that is another reason.

I support the comments made by my colleague the Urban Services Minister. I think there is a very strong case for this legislation to be brought back. I do not think it causes any unreasonable problems for defendants. It certainly has the desired deterrent effect. I accept what my colleague says about the deterrent effect having gone out the window because this provision is lacking at this point in time.

MR MOORE (Minister for Health, Housing and Community Services) (9.32): The deterrent effect has gone out the window and, boy, things have become so much worse. I cannot believe it. I can hardly sleep for the squeal of tyres. How difficult it is to hear in this chamber when outside tyres are squealing, engines are roaring and smoke is pouring out. It is such a huge problem. We have to seize people's vehicles. What's next, Fourby?

Mr Quinlan: Take their caps off because they are wearing them back to front and looking very surly.

MR MOORE: That is the next thing we need—to seize caps because people are wearing them back to front. It is extraordinarily annoying to see them wearing them that way. Then there are skateboards. You know how annoying those skateboards are. People do dangerous things on them. I have seen them come down the steps out the front here. Seize them. Of course, you will have to give them back in due time. That is the obvious thing to do.

What else can we seize? As long as it does not affect middle-class people, it will be okay. We can seize it, and it will be fine. The things that we like are okay. We must be very careful. If you have a beer in your hand, we cannot have the police seize that, even though beer bottles cause terrible problems. What about reading material? I see people reading things I do not like. We should be able rip those things out of people's hands.

Mr Rugendyke is back with his law and order bill. Seize vehicles. This will solve the problem. This takes me back to the Second Assembly. Mr Connolly was an excellent debater. One of the techniques he used very effectively—I am sure members will remember this with some fondness—was the straw-man technique. He would build up a big problem and then introduce a solution to it. We now have the straw car technique from Dave Rugendyke. He builds up this great problem of straw tyres and straw cars. They are creating terrible problems for our society.

Look what it does to the roads. You may not realise this, but it leaves black marks on the roads. They are not straight black marks. They are black marks that snake down the road. How can we have that in a neat and tidy Canberra, particularly in the inner suburbs where we have a grid system and straight roads? It is not so bad where Mr Rugendyke lives in the electorate of Ginninderra, where the roads are nice and curvy. You do not want to seize cars there. I bet that the 16 cars that were seized were all seized around Braddon, or a great proportion of them were.

Young people like to look at each other's cars. They get a bit carried away and they burn out a tyre or two. Tyres are not cheap. There are probably some people here who, although I am sure they have not inhaled the smoke from the tyres, have probably let the clutch out at such a speed, no doubt accidentally, that the tyres squalled. They could have had their car seized if they had been 10 or 15 years younger.

This is over-the-top legislation. The punishment is totally out of proportion to the crime. That is what is wrong here. On the last private members day of the Fourth Assembly, we should give Mr Rugendyke's bill short shrift. We should say, "Let us leave this alone." If he comes back after the election and there is a big conservative majority in the next Assembly, he can introduce his bill then and we will have to drive more carefully. This is out of proportion and should be rejected.

MR RUGENDYKE (9.37), in reply: In closing the debate, I thank members who support this important piece of legislation. I know that when the police had this tool in the kitbag last time they used it wisely, cautiously and appropriately. They did not abuse it. I know they will use it in the same way if it is passed this evening. I am very pleased that the majority of members in the Assembly have agreed that these provisions should be reinstated in the appropriate legislation.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Land (Planning and Environment) Amendment Bill 2001

Debate resumed from 7 March 2001, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.43): The system of defined land was established to enable the planning controls for an area, usually a newly developing suburb, to be progressively refined as the detail design of the subdivision and the estate development unfolded. The system is intended to provide the flexibility for the land release and development process to proceed efficiently within an approved and publicly available framework. Ms Tucker's bill proposes the removal of the defined land provisions from the Land (Planning and Environment) Act 1991.

The government will oppose the bill. Firstly, it would significantly reduce the territory's capacity to meet its land supply needs in a flexible and cost-effective manner. Removal of the defined land provisions would mean that the Territory Plan would need to prescriptively define the detailed land use policy for new developments well ahead of the time the land was programmed for release. The levels of detail required could be effectively achieved only if detailed subdivision and engineering design were undertaken prior to defining the planning policies. If circumstances subsequently change, a full variation to the Territory Plan, usually taking between six and 12 months, would be required before the land could be developed in a different manner.

We have to remember how land gets to be defined land in the first place. It is not through the waving of a magic wand. The summary of steps in the defined land process are as follows. The land is identified as defined land, and the principles and policies for its

development are set out in the Territory Plan through the normal process for varying the plan. So you need to see subdivisions B and C of division 3 of part 2 of the act. This process involves statutory requirements for public consultation, a review by the Legislative Assembly committee, executive approval and the opportunity for the Assembly to disallow the draft variation. It gets to be defined land through a variation process.

Detailed subdivision designs for the land are prepared progressively in accordance with the principles and policies set out in the plan. Upon approval of the subdivision of a parcel or part of a parcel of defined land, the ACT Planning Authority, by notice published in the government *Gazette*, pursuant to section 32 of the act, varies the plan, including the map and, if necessary, the written statement, to specify the purposes for which the land may be used. Then upon variation of the plan, pursuant to section 32 of the act, the parcel of land which is subdivided ceases to be defined land. Once all of the land identified in one of the documents setting out the principles and policies has ceased to be defined land, the document itself ceases to be part of the plan. There is a very definite process by which land become defined land in the first place.

That leads to the second ground for opposing this bill—cost. Subdivision and engineering design for land development are expensive. They contribute in the order of $4,000 to $5,000 to the cost of each block of land. Sometimes significant periods can elapse between initial planning and eventual development of the land. It is an extremely inefficient use of resources to expend the sort of money required to undertake this work so far ahead of when it is required.

Furthermore, if circumstances change—for instance, you might find an endangered species or something else that would cause the land not to be used in the intended manner—the planning needs to be adjusted. The significant investment involved in the detailed subdivision and engineering design would be wasted and you would have to go through the variation process yet again for a parcel of land that may not even have been used.

The government's third ground for opposing the bill flows from the previous two. It is likely to impact adversely on the price of land. Unless the taxpayers of the ACT are willing to subsidise the development industry by absorbing the cost of detailed subdivision and engineering design, that cost will have to be factored into the reserve price set for the raw land, which will in turn flow into the end price of the developed land to consumers. The timeframes and uncertainty associated with making changes to existing plans will also contribute to higher prices as the development industry passes on its holding costs.

No system is perfect. It is true that there has been some recent controversy associated with the defined land system. However, let us keep the matter in perspective. Over 7,000 blocks of land have been developed in Gungahlin under this system, with only a handful of issues attributable to the system having arisen. Most of these have satisfactorily resolved.

The problems have generally occurred when interested viewers of the Territory Plan have misinterpreted the implications of the defined land provisions. However, to date, no mechanism has existed to enable the provisions to be updated when changes occur. To

overcome this problem, a new provision is being included in the Territory Plan to enable the most up-to-date intentions for the development of an area of defined land to be clearly shown on the Territory Plan map. This will minimise the potential for misinterpretation and largely overcome the problems experienced recently at Amaroo. The new provisions are contained in draft variation No 155, which is currently being considered by the Standing Committee on Planning and Urban Services.

If the system of defined land is removed, the territory will lose its flexibility to respond to changing circumstances. It will impact significantly on the territory's budget, and end purchasers of developed land will have to pay more as a consequence.

The bill Ms Tucker has prepared is quite curious. It amends the act by removing the provisions for defined land. The overlay, however, would remain on the Territory Plan, but in effect it would become sterile. Ms Tucker's amendments are moving against sections 14 and 23, which are about the application of defined land and the exemption that allows defined land to exist. Section 31, which is the definition for subdivision, is left in place.

If this bill were to be passed tonight and any changes were needed for, say, environmental or social needs in a greenfield site where the overlay applies, a variation taking nine to 12 months would have to occur. If an area needed protecting for environmental reasons, or a site were to be extended for recreation land, then that would also be the case.

With the defined land at North Watson woodland, we excised those portions we recently turned into a park. The system of defined land has worked very well there. We admit that since the experience of Amaroo we need to look at the way we do our business, and we will make provisions so that the Territory Plan map is updated regularly.

This is not good law. This is bad law. The process is quite distinct and quite clear. It is quite involved to make an area land defined. Ms Tucker is putting uncertainty and unnecessary cost into the process. The government will be opposing the bill.

MR KAINE (9.51): I do not support the proposal put forward by Ms Tucker. I believe that the concept of defined land serves a useful purpose in the context of planning and development of available land in the territory. To remove the concept of defined land in its entirety is one of those simple solutions that you, Mr Deputy Speaker, referred to earlier today. It is a simple solution and it is wrong.

A better solution for Ms Tucker if she is concerned about the defined land concept would be to propose ways in which defined land could be better managed rather than trying to do away with defined land altogether. Defined land does serve a useful purpose. It was put in the legislation for a good reason, and I believe that it has served a useful purpose. To do away with it in its entirety because some aspects of the management of defined land that perhaps do not please us is taking a sledgehammer to crack a nut, in my view.

I will not support this bill, but I would be interested if Ms Tucker cares to follow it up later with a proposal for ways in which defined land might be better managed. That might be more complicated but would be a better solution.

MR CORBELL (9.53): The provision for defined land is an important planning tool available to the territory, particularly in greenfield areas. Ms Tucker's proposal this evening seeks to change the way defined land operates. Effectively, it removes the flexibility currently available to the ACT Planning Authority in the planning, in particular, of greenfield residential subdivisions.

Ms Tucker seeks to use a legislative solution to address what has been a problem with the way defined land has been administered, information has been provided to residents and land release has been managed. That is not the appropriate approach.

Defined land, in a number of instances—most notably the instance at Amaroo—has been managed poorly. In Labor's view, it has been managed poorly because the government's land release sequencing has not been far enough advanced to prevent decisions about changes to land use immediately adjacent to newly developed and inhabited residential areas.

In Amaroo people live across the road from an area that they originally expected would be urban open space. Because of the defined land provision, that was changed to a schools and playing fields precinct. It was also changed to take account of the need for a group centre. Those changes were entirely within the law.

It is very disappointing that residents purchased their blocks on an understanding that the area was to be used for one purpose, when in fact the planning law, the Territory Plan, made provision for land use policy to be subject to change through the defined land provision. The planning for that area should have been fully resolved before residential development in the adjacent area started. In that way decisions about changing the land use policy could have occurred without any impact on residents.

In Labor's view, this all comes down to the simple matter of planning land release far enough in advance so that the specific issues dealing with detailed design of subdivision, roads and engineering works are finalised before you allow residents to move in next door. That is the issue Ms Tucker is trying to address, but the way she is trying to address it, as Mr Kaine says, uses a sledgehammer to crack a nut.

If the defined land provision is changed in the way Ms Tucker is proposing this evening, as the minister outlined, we will have to clearly set out the land use policy for all of Gungahlin and any other greenfield sites up front. At the very beginning, any change, no matter how minor, will have to be subject to a Territory Plan variation, even though there may be no-one living within kilometres and even though there may be new environmental issues or engineering issues that need to be addressed. We will have to come back to this place and vary the Territory Plan. That is a lengthy process that should not be required in the instances Ms Tucker is trying to address.

The Labor Party will not be supporting the bill. We have made clear our concern about the government's management of the defined land provision, but we believe that the weakness is in the management, not in the provisions of the legislation.

MS TUCKER (9.57), in reply: Clearly we do not have support for this bill. Labor and Liberal argue for flexibility. I guess that falls on the ears of the people at Amaroo with some disappointment. Those people bought their land and houses thinking they would

have a pond, a park and housing over the road, whereas they now have a preschool, two primary schools and a high school.

There is obviously an understanding now that defined land needs to be administered and managed better. Lessons apparently have been learned. I am still concerned. I do not think planning would be such an onerous thing to manage without defined land. I think removal of defined land would bring more accountability. But I acknowledge that I do not have support for my bill.

Question resolved in the negative.

Fair Trading Bill 2001

Debate resumed from 2 May 2001, on motion by **Mr Rugendyke**:

> That this bill be agreed to in principle.

MR STEFANIAK (Minister for Education and Attorney-General) (9.59): Mr Deputy Speaker, the government is happy to support the Fair Trading Bill to the in-principle stage. We would actually be very happy to support it altogether but for problems with the national uniformity agreement and the national Consumer Credit Code. The bill in itself reflects sentiments which we certainly could not disagree with.

Under Mr Rugendyke's proposed amendments, a credit provider would be able to enter into a credit contract or increase the amount of credit available under an existing credit contract only after undertaking a satisfactory assessment of a person's capacity to repay the credit. The amendment would prevent a credit provider from issuing pre-approved credit limit documents to customers without first having undertaken a satisfactory assessment of their ability to pay. That seems to us eminently sensible. The examples he has given provide strong reason for state and territory governments to carefully consider how best these matters might be addressed. That is what they are doing; these matters are already progressing at an interstate level.

The ACT's continued participation in the uniformity agreement will mean the continued ability of the ACT to influence national debate on credit matters. More importantly, the ACT will continue to benefit from the introduction of new credit laws resulting from agreed amendments to the Uniform Consumer Credit Code.

I would like to emphasise my concern that credit providers, particularly the big banks, who are bound by the credit code, may not think it worth while to extend credit in the ACT if they have to substantially amend their national lending procedures to accommodate the ACT region. We are, after all, only 1.7 per cent of the Australian population. Moreover, this has great potential to increase compliance costs for credit providers, which would almost invariably be passed on to consumers. That would result in additional costs and delays—an additional imposition on ACT consumers—and I do not think that is something any of us want.

We are certainly not debating the benefits that would flow from Mr Rugendyke's bill. We think it is a good suggestion; it is one I raised at the consumer affairs ministers conference in July. Whilst they would not give me the two-thirds go-ahead to have the

bill introduced and then perhaps amended further when the national legislation comes in—which they say should be on the table in around November—it was sent off to UCCCMC, which has the capacity to give it a tick. Unfortunately that has not happened. I will come back to that later.

I commend Mr Rugendyke for his bill, which I think is very important. It substantially advances and speeds up what is happening nationally. It is not going as fast as we would like; nevertheless, we are getting there. There are a number of areas where, because of what is happening nationally, it would have some adverse effects if it were passed tonight—apart from throwing us out of the national stream. I might come to that if we ever get to the detail stage.

Basically, it is something that we want to see happen and we are very supportive of. I have always indicated to Mr Rugendyke that I give him full credit for it and will continue to do so. But if we go ahead with it tonight and it is debated and someone gets us thrown out of the national scheme, on their head be it. That will not help the basic punter in the ACT who stands to benefit from what Mr Rugendyke is trying to do through this bill.

I am advised that, by the end of the year—I said "November"—the national scheme will be introduced. This will address the issue of credit overcommitment, amongst the other important credit issues for amendment in the Uniform Consumer Credit Code that will be applicable here. In that way ACT consumers will continue to have the protection of all provisions of the Uniform Consumer Credit Code.

I had hoped the scheme would be available in July. It was not. That is unfortunate. It is unfortunate that the consumer affairs ministers did not agree to have this bill go forward and let us enact it. It is unfortunate that UCCCMC, to whom they referred it, who could also have given it a tick, did not do so. But, at least, even though it has taken a little longer than I would have liked, we will have uniform credit. In fact, that will extend what the bill does to cover other areas, assisting further consumers when it actually gets done.

It is important that we stay in the national scheme. If we do not, it is the basic punter, whom Mr Rugendyke is trying to assist, who will be the worst off. After we pass this bill at the in-principle stage—I assume the Assembly will want to do that—I will seek to adjourn it. If not, I will have more to say then.

I recently sent letters to members who are interested in this bill. I will read them onto the transcript because I think they encapsulate our support for what Mr Rugendyke is doing about the practical problems. I sent one to Mr Rugendyke, dated 22 August. It reads:

> Dear Dave,
>
> I refer to my recent letter of 17 August 2001 and now enclose a copy of the response from the Uniform Consumer Credit Code Management Committee (UCCCMC) commenting on your proposed Fair Trading Amendment Bill 2001.
>
> Unfortunately, it would appear that our attempts to persuade UCCCMC to give us some leeway for the passage of your legislation in advance have been unproductive. UCCCMC remains committed to the goal of maintaining national uniformity with

> the operation of the Code so that Australian consumers will continue to benefit from having uniform credit laws in a national market.
>
> As you are aware, the Government fully supports your proposal at every level, noting that the changes that you want to introduce are also being treated seriously at a national level, with a draft Bill to amend the Credit Code, incorporating your proposals, earmarked for MCCA's consideration in November.
>
> If the ACT were to pass the legislation, the consequences are that the ACT would fall outside the uniform Credit Code regime, exposing ACT consumers to higher fees and charges and interest rates as a result of higher compliance costs imposed on credit providers which would inevitably be passed on to consumers.
>
> On balance, in light of UCCCMC's comments, I would urge you to agree to adjourn debate on this Bill. I say this because your proposals, together with a raft of other proposals aimed at addressing credit card over-commitment, will gain legislative force in an amendment to the uniform Credit Code early next year.
>
> This course of action will ensure that ACT consumers will continue to enjoy the financial benefits that the Uniformity Agreement delivers, as well as benefiting from the provisions in your Bill which will be incorporated into the Credit Code in the new year.

Similarly, in a letter dated 24 August to my colleague the Leader of the Opposition, I advised:

> Dear Jon,
>
> I am writing to seek your co-operation in opposing the passage of Mr Rugendyke's Fair Trading Amendment Bill 2001.

I am saying that it is sensible if we support it in principle but not pass it tonight for the reasons given. If we do go to the final stage, I think—sad as it would be—we would have to oppose that. But we should pass it in principle, and I will come back to that at the end.

I go on to say:

> I seek your support because of the adverse consequences that the passage of the Bill will have on the ACT community. If the ACT is forced to withdraw its support from the normal protocols under MCCA, this will impact, not only on this Government and future ACT Governments in administering the Territory, but also on their dealings with other Australian Governments.
>
> While the Government fully supports Mr Rugendyke's proposals at every level, the changes that he wants to introduce are already being treated seriously at a national level, with a draft Bill to amend the Consumer Credit Code incorporating his proposals and a raft of other proposals aimed at addressing credit card over-commitment, earmarked for MCCA's consideration in November this year. Indeed, it is anticipated that these proposals will gain legislative force in an amendment to the uniform Credit Code early next year.
>
> Unfortunately, our attempts to persuade UCCCMC to give us some leeway for the passage of the legislation in advance have been unproductive. UCCCMC has advised that if the ACT were to pass this legislation, this would amount to a breach

of the Uniformity Agreement. The consequence of a breach is that the ACT would automatically cease to be a party to the Agreement as clause 10 (2) provides that a State or Territory must not introduce amending legislation without obtaining 2/3 majority approval of the States and Territories. As you can see, support for Mr Rugendyke's Bill will place the ACT in a very difficult position.

The passage of this legislation will mean that the ACT would lose access to all benefits that flow from participating in the national Uniform Credit Code scheme, a scheme which was the inspiration of a Labor Government rightly committed to the introduction of Australian Uniform Credit laws. It was a Labor Government that committed the ACT to the Australian Uniform Credit Laws Agreement in 1993 which was signed by the then Attorney-General, Mr Terry Connolly. At the time, the Labor Government fully recognised the remarkable benefits that participation in the development and implementation of national credit laws would bring to the ACT community.

The passage of this legislation will mean that the ACT will lose its ability to influence national debate on credit matters and find itself isolated from the views of other participating jurisdictions. Of more concern, the ACT would always be in catch-up mode, unable to benefit from the introduction of new credit laws introduced under the Uniformity Agreement.

As you are aware, participation in a national forum encourages critical reflection on what may have been strongly held views, while at the same time gaining exposure to possible different approaches. Moreover, in respect of important but possibly politically unpopular measures, a national forum can also provide a level of support and strength to Ministers to proceed if there is national backing or a national framework to work within. There is also the benefit of being able to utilise a collective regulatory pressure that can be applied across jurisdictions, particularly so in the case of smaller jurisdictions, like the ACT.

I am also concerned that ACT consumers, small businesses and credit providers may suffer delays, higher costs and confusion if the ACT gets out of step with the rest of Australia. This will particularly be the case if they, as credit providers, have to substantially amend their national lending procedures to accommodate the ACT region.

Uniformity of credit laws gives certainty to the industry and consumers of those services. It provides uniform procedures for regulating consumer credit throughout Australia with the consequence that compliance costs can be subsidised across the jurisdictions, and all consumers, including the ACT community, are protected.

As Mr Rugendyke's proposals will be overtaken by amendments to the Consumer Credit Code in any event, it seems pointless to expose the ACT community to the consequences that will flow from the ACT's breach of the Uniformity Agreement. I urge you to carefully consider the serious implications that will arise if this Bill is passed in advance of the Credit Code amendments early next year.

Ms Karen Greenland, who is acting chair of the Standing Committee of Officials of Consumer Affairs—which supports the Ministerial Council of Consumer Affairs—was sent a letter from the chair of UCCCMC. It is a bit too long to read it all, but I will read the salient points, in terms of the Uniformity Agreement, rejecting our proposal that Mr Rugendyke's legislation get a tick out of session so we can go ahead with it. These are:

> As you would be aware, all States and Territories are signatories to and are bound by the terms of the Uniform Credit Laws Agreement of 1993 ("the Uniformity Agreement"). Under the Uniformity Agreement, each State and Territory agreed to ensure that legislation regulating the provision of consumer credit should be uniform or consistent with the uniform scheme.
>
> In my view, if the Bill is passed by ACT, then ACT will be in breach of the Uniformity Agreement. This is due to clause 10 (2) of the Uniformity Agreement, which provides that a State or Territory must not introduce amending legislation without obtaining 2/3 majority approval of the States and Territories.
>
> "Amending Legislation" is relevantly defined as being legislation amending or adding to the existing Code. In my view, the proposed ACT Bill is "adding" to the obligations already imposed by the Code on credit providers.
>
> Clause 7 (2) provides that a State or Territory ceases to be a party to the Uniformity Agreement if that State or Territory breaches clause 10 (2).

He then points out that UCCCMC does not actually police the role and that that is a matter for the MCCA committee. He indicates that there are two potentially significant policy issues raised by the bill. One is that the code only applies to credit that is provided for personal, domestic or household purposes; it does not apply to business or investment lending. That point is raised in Dave's bill. I am not going to deal with that now, because I think it is more for the detail stage. Also, I do not have any amendments which might get over that—even if it was not going to affect us being in the code or not, which is another argument. But there are a couple of other matters in the detail that UCCCMC say are significant departures from the policy of the code.

UCCCMC go on to say that the New South Wales Department of Fair Trading has been working on a uniform approach, which includes Mr Rugendyke's matters and other matters and is much larger. I do not think Mr Rugendyke has got problems with that. Not only does it do what he wants it to do; it does other things as well.

UCCCMC make comments in relation to uniformity and the benefits that flow from that. On page 3 of their letter, they state:

> Uniformity was finally achieved in 1996 with the commencement of the Code. The benefits of uniformity should be lower compliance costs for credit providers, which should be passed onto consumers in the form of lower fees and charges and interest rates.
>
> The current ACT Bill proposes imposing on credit providers a requirement that they undertake different assessment criteria for ACT consumers as opposed to consumers in other States and Territories.

They go on to make some of the points I make.

We think Mr Rugendyke is on the right track. We are happy to support his bill in principle, but because of those very important points I mentioned, if it goes to finality today, we will not be able to support it. I will be happy to adjourn it after we agree to it in principle, which I assume most of the Assembly would like to do.

MR STANHOPE (Leader of the Opposition) (10.15): Mr Rugendyke introduced the Fair Trading Bill on 2 May 2001. It seeks to ensure—this has all been explained by the Attorney, I might add—that credit providers do not offer consumers a credit contract or an increase in their credit limit unless the consumer has requested it and the credit provider has carried out a satisfactory assessment of the consumer's ability to repay the credit advanced.

The policy set out in this bill is Labor Party policy; it is embodied, and has been for some time, in the federal Labor Party's banking policy. I assume that Mr Rugendyke is aware of that. The New South Wales Labor government prepared a discussion paper for the Ministerial Council of Consumer Affairs recommending a model bill containing this policy, and the Queensland Labor government will prepare the model bill for other states and territories to copy. Mr Rugendyke is to be commended, as the Attorney has commended him, for his early adoption of Labor Party policy.

But there is a "but" in this, and the Attorney has gone to some length in explaining the "but". The Assembly carried a motion earlier this year requesting the government to place this proposal before the ministerial council that is responsible for the Uniform Consumer Credit Code. The government complied with that direction and the council considered a discussion paper from New South Wales on this topic at its July meeting. That paper recommended, among other things, that:

- the applicant for credit state the limit required and that the provider should not grant more than that limit; and

- credit providers must assess the applicant's capacity to repay in the same manner as that for personal loans.

These points are precisely what Mr Rugendyke proposes in this bill.

I understand—and the Attorney has just given us chapter and verse on this; in fact, we have learnt much more than we really wanted to—that the council proposes to consider a draft bill incorporating these amendments at its November 2001 meeting. Any bill recommended then, and adopted as part of the uniform credit scheme, would necessarily overtake Mr Rugendyke's amendment.

Our preference would have been to wait until then so that there would be no disturbance to the nationally uniform credit scheme. In fact, during the debate on the earlier motion, our position was that it is important to retain uniformity and that states and territories should not take unilateral action to amend the Uniform Consumer Credit Code. However—and this needs to be noted; it is a chink in the armour of the case put very persuasively by the Attorney—New South Wales has already unilaterally amended the uniform scheme, in relation to payday lending, without any adverse repercussions on the scheme for the New South Wales government.

This weakens the arguments of those who suggest that the sky will fall in if the ACT should transgress in any way. New South Wales has already unilaterally made an amendment to payday lending, and the sky over New South Wales did not collapse. There is an inconsistency there that concerns me. But I do see the force of the Attorney's

argument that, if we have signed up to a nationally uniform scheme, we should keep faith as a party to that uniform arrangement.

Having said that, it may also be that the passage of these amendments would help keep the pressure on the council to ensure that it does, in fact, produce a uniform law. The amendments the council propose incorporate this provision and go much further, on such matters as:

- warnings about the time it will take consumers to repay the credit;
- the establishment of "best practice" audit systems to ensure that consumers' financial statements are correct; and
- the requirement for credit providers to require consumers to disclose all credit accounts held, the balances of those accounts and credit limits imposed.

These and the other matters being considered are all eminently sensible and will be supported by the Labor Party at this in-principle stage and certainly as part of the model bill, particularly as those amendments will supersede Mr Rugendyke's bill.

That is the position we find ourselves in. This is good law; that is not disputed. It is a good proposal that Mr Rugendyke has put forward. The Labor Party very much supports this legislation. Mr Rugendyke did ask earlier today what the Labor Party's position on this was. I indicated to him that we supported the legislation, and we certainly do. We support it here, and we support it in principle.

The Attorney has since indicated—and I thought—that the government was initially proposing to oppose it, but he is now indicating that the government will support the bill at the in-principle stage and then move to adjourn. That is also the position the Labor Party will take on the bill of Mr Rugendyke. It is good legislation, and he can be commended for it. We support it in principle and congratulate him for bringing it forward, and we will support the government in adjourning the bill.

MS TUCKER (10.21): We have spoken on this issue already. There is a consumer protection issue here that everyone seems to be supportive of. The other issue in the debate is how we as a legislature relate to national agreements and national ministerial meetings.

The Greens have said before in this case that we believe national agreements are a useful way to develop approaches to shared problems but that we do not agree that they should become an enforcement mechanism for the lowest common denominator. That is what our government is arguing—that we cannot close this gap in the legislation until and unless the code is amended in some way. If the argument that the minister put is fear about the national code, I do not support it. If that is what the Labor Party are saying, I do not support them either.

The important questions to answer here are that we have responsibility—

Mr Berry: There is going to be a national scheme in November, Kerrie.

MS TUCKER: Yes, I know. Okay, that is your argument: there is a national scheme in November. What is important for us, though, is that we have responsibilities for the administration of credit in the territory. Important also is the question of the penalty for moving beyond the code, about which the letter from the chair of the management committee makes a number of relevant points. The government argue that the ACT would be kicked out of the ministerial council, but this letter clears that up. Ultimately, it is a matter for the MCCA to decide if a state or territory has breached the uniformity agreement and what consequences flow from that.

The chair of the management committee for the Uniform Consumer Credit Code argues that uniformity of legislation is an end in itself. Consumer credit businesses are generally national, and therefore it makes some sense that they be regulated in a co-ordinated manner. The Uniform Consumer Credit Code does make allowances for changes, but individual jurisdiction's changes are to be approved by a two-thirds majority of the other jurisdictions.

The chair of the management committee says the states have been striving for uniformity since the 60s and pleads that, because it was achieved only recently, in 1996, we not upset the apple cart. However, the chair seems unable to speak in definitive terms about the impacts of non-uniform legislation. He says that the benefit should be lower compliance costs and that they should be passed on to consumers. If credit providers in the ACT are required, before they are in other states, to conduct a reasonable assessment of a person's ability to pay back the debt, it is hard to see how this will result in costs.

When someone cannot pay back their debt there are compliance costs for the lending institution, but there are also costs for the person who is caught in that credit trap. Credit is tempting in a consumer society. As I said in the debate on a related motion, Christmas time in our society brings on a sense of obligation to buy presents—lots of presents. Some retailers make most of their money at that time of year; some people get into serious trouble at that time of year.

I would like to address the timing of the bill, which seems to be what Mr Stanhope's argument is about as well. The chair of the management committee points out that the MCCA meeting in July heard from the New South Wales group, which had been working on proposals to address credit card overcommitment. I understand, though, that it is not stated expressly in the letter that this task had been hanging around for a year or so. The chair says now that these uniform amendments, which will achieve a similar result, are already firmly on the agenda. The chair expects that a draft bill to this end will be prepared by the end of the year, subject to agreement at the November meeting, as Mr Stanhope said.

The point is that by November we will have a new Assembly. There is no way that the ACT, in this election year, can implement these new arrangements before Christmas unless we do it now. So, for the sake of possibly saving some fees—although it is not at all self-evident that the banks have reduced their fees since we achieved uniformity in 1996—the Assembly is being asked to allow the pre-Christmas, pre-approved credit push, even though the committee will in all likelihood approve a similar change in November this year.

We cannot know what the decision will be, but the fact that this is not out of the blue—it is a matter that has been discussed—takes some of the force from the argument that to pass this bill would be to destroy the code. For those reasons I do not support Labor and Liberal in their determination to adjourn this debate.

MR RUGENDYKE (10.26), in reply: A series of extremely flimsy arguments has been put up against passing this bill today by both the government and the opposition and, in closing the debate, I would like to address them.

I have observed a clear lack of interest from the government in fair trading matters of late. This is a recurring pattern which has created the perception that the relevance of the fair trading office is being compromised. It was only last week that we debated a bill that originally proposed to hand ACT consumer protection responsibilities to the Commonwealth. This bill was an opportunity for the government to take a leading role and a proactive stand in this long-running issue of pre-approved credit card extensions in our own community.

I am heartened, Ms Tucker, that there are other members who object to the government's hesitant approach in this instance and have seen through the limp arguments. Without doubt, the most difficult aspect to accept of the government's position today is the advice on which it has been based.

In summary, the government has said that, if the legislation is passed, it would fall outside the Uniform Consumer Credit Code and expose ACT consumers to higher fees and charges and interest rates as a result of higher compliance costs. The government says we should not proceed with the bill, because we should wait for the changes to be introduced at a national level. They have sympathy with the banks about their higher compliance costs. What about the punters who will struggle with the pre-approved increases to their credit limits of thousands of dollars at a time?

Let's get this position straight. It is based on a letter from a public servant in Queensland's Department of Tourism, Racing and Fair Trading. I will quote from the ACT Attorney-General's subsequent response:

> It would appear that our attempts to persuade the Uniform Consumer Credit Code Management Committee to give us some leeway for the passage of your legislation in advance have been unproductive. UCCCMC remains committed to the goal of maintaining national uniformity.

Here we have the ACT government kowtowing to a quasi-political committee. The ACT government tells me, in the same letter, that it fully supports my proposal at every level. But in the next breath it is saying that this parliament cannot proceed with sensible legislation because UCCCMC says so. This just does not make sense to me. What were we elected for—to represent the best interests of our community or to check with a public servant in Queensland before we can make a decision? It is an absolutely absurd situation.

Before specifically addressing the arguments in the marching orders from Queensland, it is worth reminding members that the government seems to pick and choose when it is important to embrace these uniform legislation agreements. Without reflecting on previous debates, I mention battery hen egg labelling and protection orders. I ask that

members think about the background to both of these issues, which are also on the table this week.

The process principle in the battery hens legislation is similar to the one in this bill in that it leaves out a progressive model because it is not in the national legislation at this time. At the end of the day, the government supported the passage of an interim solution. With the protection orders, we have another example of where the government wants to press on with reforms ahead of national reforms that are coming on line. Also, changes have been made to our version of the national road rules to accommodate cyclists where it has been deemed sensible to do so, just like this legislation has been acknowledged as sensible.

But back to the marching orders from Queensland, a state which has in the past demonstrated a partiality for going out on its own when it comes to national initiatives. The Queensland marching orders look at the uniformity agreement. The Queensland public servant says that, in his view, the ACT will be in breach because it is adding to the obligations already imposed on credit providers by the code. What he fails to mention is that the agreement says that a state or territory will not take action that conflicts with or negates the operation of the credit legislation.

Here is the point. This legislation is totally consistent with, and in the spirit of, the present code. Credit providers are already required to conduct an assessment process when they issue a credit card. Why should the credit card provider be exempted from carrying out the same prudent and diligent checks before doubling or trebling the credit limit?

I would like to read out the qualifying paragraph in the advice:

> I must point out that UCCCMC does not have a policing role in relation to the Uniformity Agreement. Ultimately, it is a matter for the Ministerial Council of Consumer Affairs to decide if a State or Territory has breached the Uniformity Agreement and what consequences flow from it.

Here we have a body with no authority telling the ACT government that it should not proceed, and the government has succumbed and meekly accepted this out.

I ask the question: is the New South Wales Minister for Fair Trading, John Watkins, going to lose his place on the ministerial council? He had legislation passed in New South Wales in recent months that goes further than the reforms in the code, in regard to payday lenders. Is New South Wales going to be kicked out? There is no suggestion that New South Wales is going to be booted out, so here we have a precedent. If the ACT were a genuine candidate to be kicked out, then New South Wales would also have to go because my bill is totally consistent and the New South Wales bill is not.

But what an outrageous proposition it is to say the ACT will be excluded from the council designed to protect consumers as a punishment for passing a bill to protect the interests of consumers—and protecting consumers with a safeguard to compel credit providers to do something they should be doing already. I see the expulsion threat as just that: a threat. Apparently, the majority of members cannot see through this tactic.

I have taken on board two valid points relating to the breadth of the bill that were raised in the advice from Queensland. It was not intended to catch business purposes in this legislation, because the credit code only applies to personal, domestic or household accounts. However, this does appear to be an unintended consequence, and I foreshadow that I will have amendments once we get past the in-principle stage—straightforward amendments, prepared and circulated to satisfy these concerns.

The next argument on the list relates to New South Wales proposals that may or may not result in a draft bill to amend the code being prepared for November this year. We are assured that it will pick up the provisions in my bill. But when will it be passed? Next year at the earliest—January, I hear. This means that ACT consumers will again be open targets for this Christmas period. Anyone who has taken the time to consult with CARE Credit and Debt Counselling Service will know that last Christmas there was the most aggressive marketing in this area on record. By holding off until whenever everyone else wants to move we are giving the banks and credit providers a free hit at our community.

The Queensland advice says that my bill has "a great potential to increase compliance costs for credit providers". Where is the evidence to substantiate this claim? What the bill proposes to do is ensure that the mail-outs are not called "pre-approved forms". They should either remove the words "pre-approved" or not do the mail-outs at all. It may save the credit providers money in the long run.

Another requirement of the bill is to conduct an assessment of the debtor's ability to repay. Surely this is potentially a saving for the credit providers because they will not be handing out massive extensions to people who do not have the capacity to repay. As responsible corporate citizens, it would also mean that the credit providers are not lumbering people with debts that are beyond their means.

What is the problem with the ACT implementing a proposal that has been on the table for some months and that will eventually come on line anyway? What is the problem with passing a bill to compel the credit providers to do what they should be doing anyway under the existing code? How is the ACT stepping out of line by implementing a prudent measure that will send a message to the banks and other credit providers that enough is enough?

How many university students or people whose employment circumstances have changed will not be able to resist the temptation of accepting a credit card increase to get them through the demands of Christmas and New Year when the pre-approved offers come around in the coming months? How many will not be able to resist and get caught in the debt that sends them broke or entrenches them in a cycle of simply paying interest but not reducing the debt?

This bill is a positive step that places the onus on banks and financial institutions to do the right thing. Their own banking code says they are required to assess the ability of the debtor to repay, but it does not happen. It is a sad indictment that legislation is required to keep their greed in check.

I make one last plea to members to take this opportunity to stop the rot in the lead-up to the Christmas period: take a proactive stand that sends a responsible message and provides the appropriate legislative support to those in the community that have to cope

with the mess caused by the greed of the banks and financial institutions. It is no secret that low income earners are the most vulnerable, and they are being targeted. Let's intervene now to stop trends like young people being burdened with huge credit debts in the early stages of their working careers.

If the Assembly accepts the argument that we cannot pass this bill today because a public servant in Queensland said so, we seriously have to look at the direction this parliament is taking and our involvement in these national regulations. We are elected to represent the ACT, and we have a monumental problem if we are dictated to by a Queensland public servant. This agreement should not preclude us from passing this commonsense legislation that is totally consistent with the existing credit laws.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

Clause 1.

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

> That the debate be now adjourned.

The Assembly voted—

Ayes, 14		Noes, 3
Mr Berry	Mr Kaine	Mr Osborne
Mrs Burke	Mr Moore	Mr Rugendyke
Mr Corbell	Mr Quinlan	Ms Tucker
Mr Cornwell	Mr Smyth	
Mr Hargreaves	Mr Stanhope	
Mr Hird	Mr Stefaniak	
Mr Humphries	Mr Wood	

Question so resolved in the affirmative.

Debate adjourned to the next sitting.

Suspension of standing order 76

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

> That standing order 76 be suspended for the remainder of this sitting.

Adjournment debate

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

> That so much of the standing orders be suspended as would prevent the adjournment debate for the sitting schedule for 30 August 2001 extending beyond the 30 minute time limit.

Special adjournment

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

> That the Assembly, at the rising of the sitting scheduled for 30 August 2001, adjourn until a day and an hour to be fixed by the Speaker either
>
> 1) at the request of the Chief Minister; or
>
> 2) on receipt of a request in writing from an absolute majority of members
>
> and that date and time of meeting shall be notified by the Speaker to each member in writing.

Territory Owned Corporations (Amendment) Bill 1999

Debate resumed from 13 October 1999, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR QUINLAN (10.46): Although there are some tempting aspects to this legislation, the opposition will not be supporting this bill. The tempting aspects are that union representation on boards would become virtually automatic—representation from the Australian Council of Social Service and representation from the conservation council. I have used the term "representation" each time because that is virtually what it boils down to. It is a prescription for representation on a board or the next best thing.

Earlier today, in relation to legislation brought to this place by Mr Osborne, we discussed what I think is in many ways overprescriptiveness in the administrative frameworks that we set up. I rather think that this is slightly—or more than slightly—overprescriptive. There is a temptation for us to have union representation on each of the boards. If there is a change of government and we throw out Australian workplace agreements and bring back enterprise bargaining, we could end up putting some of our union brothers and sisters in a position of conflict where they are on both sides of the table. I hope that, when we set up boards, we will have the good sense to appoint responsible people who will work within the guidelines set for each of those organisations. I trust that the various dimensions of our community, the various stakeholders, use their current position of power to influence those boards without necessarily being granted representation.

We were tempted to have the incorporation of unions on the board, including the Australian Capital Territory Council of Social Service. Having worked directly in the community sector for six years prior to coming to this place, I have to say that I did not necessarily always agree with what ACTCOSS said or the direction that they took. There

are many other organisations in the community who feel the same way. I use that only as an example; I do not use it as a massive criticism of ACTCOSS. But, like Mr Osborne's legislation, this tends to be overly prescriptive in the setting up of administrative regimes, which are in effect answerable to government and for which government must remain responsible.

I am sorry, but we cannot support the bill.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.50): The government also does not support this bill, simply because the principal objective of the board of any territory-owned corporation should match the well-defined objectives of that TOC in conducting itself to the best possible advantage of the community of the ACT. Since the corporations are by definition businesses, they need to focus principally on the task of operating effectively and efficiently and maximising sustainable returns to the ACT.

With respect, I think that to introduce other elements, as suggested by Ms Tucker, into this TOC legislation, would be unproductive. For example, requiring a business to, "conduct its operations in accordance with the principles of ecologically sustainable development", while it is a noble concept, is virtually meaningless in the case of a business like ACTTAB.

The second part of the bill seeks to reserve up to three board seats for defined directors, who would not necessarily be approved by the voting shareholders. In other words, up to three directors can be appointed without the agreement of the shareholders or the existing board. I simply note that there are all sorts of arguments about who these stakeholders should be.

Ms Tucker has selected three areas of her own. I am not sure why those have been chosen and why they are appropriate for each particular board covered by the legislation. I note the comments of Richard Humphry, Managing Director of the Australian Stock Exchange, who conducted a review of GBE governance arrangements for the Commonwealth in March of 1997. In that review he made the following comment:

> Boards should not be appointed on the basis of representation. A GBE should be concerned about the views or needs of a particular group, and it should establish some consultative or advisory committee to meet that need.

The boards of Actew and Totalcare have seven directors each. In the arrangements proposed by Ms Tucker, nearly half of the board would be nominated by people other than the government of the day. In the case of the subsidiaries of territory-owned corporations, some boards consist of only three directors, so the entire board could effectively be appointed without the approval of shareholders. That is an unfortunate concept.

The views of a number of those TOC heads have been sought. The chairman of the Actew board is responsible for a number of subsidiaries. I quote his comments:

> It would be an absurdity if a board of three people in a subsidiary were to comprise the interested persons proposed by Ms Tucker.

We need to ask ourselves what sort of people we should have there, and we need to ask ourselves about accountability. When something goes wrong or when there is an issue, we expect the TOCs to answer to the government and we expect the government of the day to fix the problem. But it is very difficult to do that if the board of the TOC concerned was, effectively, not appointed by the government. Governments do not usually purport to control territory-owned corporations, but they do expect to exercise a fair degree of influence on their direction through the way in which appointments to those boards are conducted.

In a case where that control would effectively be removed, it has to be asked how governments can be held accountable in this place for the things that happen on TOCs. I am not going to be able to get up here and say, "The TOC wasn't appointed by me, so I couldn't control what it was doing." If something goes wrong, people expect the government to be accountable. In regard to those circumstances, the government ought to appoint the members.

MS TUCKER (10.54), in reply: You run a mile when something goes wrong with one of your TOCs, and you say it is none of your business when we ask you to explain what is going on.

Mr Humphries: We have never said that, Ms Tucker.

MS TUCKER: I am saying that. I want to make a couple of comments. I do not know if Mr Humphries quite understands what we are proposing here; he is suggesting it is that the government does not choose who the people are. What we say in this legislation is that these groups can nominate three people, and that the government, if it chooses not to select one of those three people, does not do so and then explains why in the Assembly. Mr Humphries also said that it is about accountability and that it is not appropriate to have representation of these different interest groups. I think Mr Quinlan was of that view as well.

The accountability the Greens are interested in applies across all the responsibilities of government, not just to the business operations of a TOC. I do not agree that a TOC is a business only. As a territory-owned corporation, its operations must also serve the community interest, and the government of the day has a responsibility to ensure that they do. The very point we are making here today—and that the community is making, if you care to listen—is that the Liberals see government as a business and for that reason community interest is not being served.

Your own Prime Minister, John Howard, because he is feeling pressure from the electorate about this, is now saying, "Maybe we need to reconsider the community benefit of competition policy." The language and essence of the market being used to determine how government does business is so unpopular with the community, even with Liberal voters, that John Howard is now having a rethink on it—or at least pretending to.

To include the Council of Social Service, the conservation council and the Trades and Labour Council is to reflect a commitment to what the United Nations have listed as social rights under the International Covenant on Civil and Political Rights. One of those social rights is the right to form a trade union. It is a basic right, as it is listed under the United Nations rights. To include the conservation council is about the right to a clean

environment, and to include the Council of Social Service is about the right to have social justice implemented and acknowledged in business activities. That is why we want to get that broad representation onto the boards; that is why we are challenging the way this government chooses to focus just on the business aspect of territory-owned corporations.

It is disappointing that this bill will not be getting support today. Those different views and that expertise need badly to be represented on boards. It is really disturbing that Mr Humphries apparently thinks that it is only accountants or lawyers and so on—and I know we have had this debate many times—who will be able to efficiently manage a territory-owned corporation and who are appropriate for a board.

The point we are trying to make here is that, if you want good decisions made, you have to take all these aspects into account. If you do not, you are failing in your responsibilities as the government of the day. We need to integrate these broad structural accountabilities—to more than the dollar—into how we operate.

Mr Berry: Mr Deputy Speaker, I have been most critical of the government's management—

Mr Moore: I think she closed the debate.

MR DEPUTY SPEAKER: Thank you, Mr Moore. Yes, the debate has been closed.

MR BERRY: I seek leave to speak for an extra five minutes.

Leave granted.

MR BERRY: I have been most critical of the government's management of its territory-owned corporations in recent times over particular matters, but having representatives on boards just cannot work in a parliamentary democracy. I think this was put up to lose because it does not make sense to me. The people who will be held responsible are the shareholders, who, after all, are put where they are by this place. In the end, if we do not like the way they are managing their territory-owned corporations, we can do our very best to take away that responsibility, which we intend to do on 20 October. We would do it today, except that we do not think there are enough people here to help us.

Mr Moore: Not enough time today.

MR BERRY: Well, you have removed the 11 o'clock rule, haven't you? So we might still have enough time.

Mr Speaker, I sympathise with what Ms Tucker is doing. There may not be the sort of people on boards who would manage them in keeping with the way that she might like or, indeed, that I might like. If Labor were in a position of appointing people to boards, it might appoint quite different sorts of people from the ones the Liberals would appoint.

It all boils down to how we look after territory-owned corporations and whether we have them or not. Whether we have them or not is a matter for this Assembly, and how we manage them is a matter for this Assembly as well. So, whilst I accept her reservations

about the way they are being managed, I do not think this is the way to deal with it. It is really a matter of the style of the government of the day, of who they appoint onto these boards and of having an understanding of what they are going to do in relation to these matters.

There is a question, of course, of how independent the boards are from government and whether they are in a sense political arms of the government. Whilst there is a requirement in the legislation to report directions from government, there is not a requirement to report telephone calls or hints and all those sorts of things when the board is not behaving separately from government.

Mr Moore: Is that how you used to operate?

MR BERRY: Mr Moore interjects, "Is that how you used to operate?" Some might say that a good board chair knows exactly what you as a government are thinking; you do not have to tell them. The challenge is to have boards that are independent of government. A classic example of where questions could be raised about that is the CTEC board because there has been a blurring of the lines—spokespeople from both sides have been making statements about certain things. But I do not think this is the way for the board to do it. The way to deal with it, of course, is to see off the people who are the shareholders on behalf of the territory.

Question resolved in the negative.

Adjournment

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

> That the Assembly do now adjourn.

Sick leave register

MR BERRY (11.02): I want to draw a disturbing development to the attention of the Assembly, which has made the news in recent weeks. I am referring to what is described as the latest human resources headlines from CCH Australia Ltd. It draws attention to something called the "sick leave register" that is being set up by a labour hire company described as Wayne and Diana's Employment Service. They invite employers to include on this register the number of sick days workers have taken. Then the other employers, who see a list of employees as potential workers can, for a $40 fee, have access to sickie reports on 10 of these workers.

Obviously, concerns have been raised about breach of privacy provisions, and there have been various accusations of what has been described as illegal behaviour. This is a draconian and quite concerning development in labour relations throughout the country, which, in my view, is to be condemned. It is another demonstration of the philosophical position that the Howard government adopts—that is, that the workers are to be blamed for almost everything that goes wrong.

In this case it looks as though workers will be blamed for becoming ill and having a day off. Their employment prospects will be affected by people having access to their personal and private sick leave records and using them in a discriminatory way. I think it is a disgusting development and I wish well to those who are fighting it, including the federal Privacy Commission, to prevent this from happening in future.

Question resolved in the affirmative.

Assembly adjourned at 11.04 pm

Schedules of amendments

Schedule 1

Pharmacy Amendment Bill 2001

Amendments circulated by Mr Moore (Minister for Health, Housing and Community Services)

1.
Clause 46
Proposed new sections 30B and 30C

Page 16, line 4—

Omit the proposed sections, substitute—

"30B Alteration to constitution or name

(1) An incorporated pharmacist that changes its name without the approval of the board ceases to be a registered pharmacist.

(2) An incorporated pharmacist that changes its constitution without the approval of the board ceases to be a registered pharmacist.

30C Companies not to practise in partnership

An incorporated pharmacist that practises in partnership with another person without the approval of the board ceases to be a registered pharmacist."

Schedule 2

Legislative Assembly (Privileges) Bill 2001

Amendments circulated by Mr Osborne

1
Parts 1, 2, 3, and 4 and schedules 1 and 2
Page 1, line 3—

Omit the parts and schedules, substitute the following clauses:

1 Name of Act
This Act is the *Legislative Assembly Precincts Act 2001*.

2 Commencement
This Act commences on a day fixed by the Minister by notice in the Gazette.
Note 1 The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).
Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).
Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see *Legislation Act 2001*, s 79).

3 Definitions for Act
In this Act:
Assembly means the Legislative Assembly.
Assembly precincts means—
(a) the precincts defined by section 5; and
(b) any property to which section 6 applies.
Speaker includes the Deputy Speaker if—
(a) the Speaker is absent from duty; or
(b) there is a vacancy in the office of the Speaker.

4 Notes
A note included in this Act is explanatory and is not part of this Act.
Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

5 Assembly precincts
(1) The Assembly precincts consist of the land described in subsection (2) and all buildings, structures and works on, above or under any of that land.

(2) The land within the Assembly precincts is—
(a) block 3, section 19, division of City, Canberra Central District; and
(b) that part of Civic Square under the public entrance canopy; and
(c) that part of section 19, division of City, Canberra Central District under the members' entrance canopy.

(3) In this section:

Assembly building means the building occupying block 3, section 19, division of City, Canberra Central District.

members' entrance canopy means the fixed canopy attached to the southern side of the Assembly building near the members' entrance.

public entrance canopy means the fixed canopy attached to the northern side of the Assembly building near the public entrance.

6 Premises included in Assembly precincts

(1) This section applies to property that is leased to or managed by the Territory and is not within the Assembly precincts defined by section 5.

(2) If the Speaker gives a written certificate that stated property is required for use by the Assembly, the regulations may declare that the property is to be treated as part of the Assembly precincts for this Act.

7 Control and management of Assembly precincts

(1) The Speaker is responsible for the control and management of the Assembly precincts and may take any action the Speaker considers necessary for those purposes.

(2) The Assembly may, by resolution, give the Speaker directions about the exercise of the Speaker's functions under subsection (1).

(3) If the Legislative Assembly gives a direction under subsection (2), the Speaker must comply with the direction.

8 Executive area

(1) The Speaker's functions under section 7 must be exercised in relation to the Executive area in accordance with any limitations and conditions agreed in writing between the Speaker and the Chief Minister.

(2) In this section:

Executive area means the area of the Assembly precincts reserved for the use of the Executive by a written agreement between the Speaker and the Chief Minister.

9 Removal of people

(1) The Speaker may direct a person who is not a member—

(a) to leave the Assembly precincts; or

(b) not to enter the Assembly precincts.

(2) The Speaker may arrange for the removal or exclusion from the Assembly precincts of a person given a direction under subsection (1) using any necessary and reasonable force and assistance.

(3) The Speaker, or a person acting under the Speaker's direction, does not incur civil or criminal liability for an act or omission done honestly and without negligence under this section.

(4) A civil liability that would, apart from this section, attach to the Speaker, or a person acting under the direction of the Speaker, attaches instead to the Territory.

10 Contravention of Speaker's direction
A person must not, without reasonable excuse, contravene a direction by the Speaker under section 9 (1).
Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

11 Application of Crimes (Offences against the Government) Act
The *Crimes (Offences against the Government) Act 1989* applies to the Assembly precincts as if they were government premises within the meaning of that Act.

12 Regulation-making power
The Executive may make regulations for this Act.
Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

2
Title
Page 1—
Omit the title, substitute the following title:
An Act about the precincts of the Legislative Assembly