DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

25 May 2000

Thursday, 25 May 2000

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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.

WORKERS' COMPENSATION SYSTEM—SELECT COMMITTEE
Report

MR BERRY (10.31): Pursuant to order, I present the following report:

> Workers' Compensation System—Select Committee—Report—Workers' compensation system in the ACT, including a dissenting report, dated 22 May 2000, together with a copy of the minutes of proceedings.

I move:

> That the report be noted.

Workers compensation in the ACT has been an issue of contest between various groups within the community for many years. On the one hand, there are people on the employers' side of the business who argue that benefits need to be reduced in order that premiums can be reduced and, on the other, there are employee organisations and organisations concerned with social justice who argue that benefits need to be retained or improved for workers injured in the system.

There is also argument about whether employers are making fair contributions to the scheme. Some in the community argue that workers exploit the scheme and others argue that employers exploit the scheme. A good description of the workers compensation debate in the ACT is that it is one in which arguments abound. One of the great difficulties with the issue is in getting access to data to prove the case one way or the other. The fact that there are arguments coming from many directions in relation to this matter is a cause for concern about the outcomes which flow not only to workers in the ACT but to businesses as well.

This committee was charged with the job of looking at aspects of the workers compensation system in the ACT and at a bill which was introduced into the Assembly last year. The committee received 12 submissions, ranging from the ACT Bar Association, the ACT and Region Chamber of Commerce and Industry and Australian Business, through the ACT government, to the CFMEU and the Insurance Council of Australia. The committee also took evidence from representatives of eight organisations in a public hearing.

The committee was predominantly concerned with problems associated with what was described as illegal employer conduct, chiefly with underreporting practices in which employers underdeclare the amount of wages and salaries paid in order to get an

unjustified discount on their workers compensation insurance premiums. That is a serious matter for the community. It is one which has gained some momentum not only in the ACT but interstate as well and there are moves afoot in other places to address the issue.

The entire scheme could well be undermined by underreporting practices as the Nominal Insurer deals with more claims and premium increases arise as insurers seek to recoup moneys forgone. That means, in effect, that businesses which pay the proper amount end up paying more for workers compensation premiums than they should.

One of the difficulties, as I mentioned earlier, is in getting access to a set of data which accurately quantifies the extent of a whole range of workers compensation related payments and benefits—I suppose they are better described as inputs and outgoings—to ascertain the extent to which employers underreport their wage and salary bills to insurers. Strong evidence was provided by the insurance industry, employee organisations and the government indicating that this practice is of great concern. It was reported to us that it is of particular concern in the building and construction industry.

The evidence put to us was that underreporting could be anywhere between one per cent and 75 per cent. That is a wide range, but it certainly demonstrates that something needs to be done about the problem confronting us in relation to workers compensation. It is noteworthy, against the background of what I said in relation to the building and construction industry, that 47½ per cent of the current claims before the Nominal Insurer come from the building and allied industry sector. That means, in effect, that the Nominal Insurer has to be funded to deal with claims by insurers who, in many cases, have paid the appropriate rate when it comes to their premiums and declared their wage and salary bills accordingly.

I want to make clear at the outset that this issue is one for only a small number of employers in the ACT. An overwhelming number of employers who contribute to the scheme do so quite accurately as far as we can make out, but it gets back to the argument or the old adage that it only takes one rotten apple in a barrel to upset the whole barrel.

The committee lamented that the workers compensation database is still not complete after five years in office of the Carnell government. Without a database of this kind, effective policy development is severely restricted. We received evidence that we are getting close to having a database provided. It is the view of the committee that if the project has not been completed by the end of the calendar year the Assembly should consider a course of action against the government.

I regard that as a serious matter. I can tell you that I will be considering moving a censure motion against the minister if we do not see this database up and running before the end of the financial year. It is a demonstration that the government has failed to deal with a basic matter of administration, that is, its administration of workers compensation. It is something that the government has known about for five years.

I have heard the Treasurer speak in recent speeches on the budget of the commitment of the government to building social capital. Social capital is about employers properly and fairly contributing to the protection of their workers through workers compensation

schemes and ensuring that workers are fairly treated at the end. If you do not take this matter seriously, and I suspect that you have not over the last five years—

Mr Moore: That is a strange definition of "social capital", Wayne.

MR BERRY: I hear Mr Moore butt in. You can always tell the billygoats by the way they butt in. If he wants to contribute to the debate, he will get his turn later. The provision of a database on workers compensation is something that the government has to take seriously. You cannot move effectively on workers compensation without a proper database, but there are issues that have to be dealt with notwithstanding that and this is one of them, that is, employer contributions to the pool.

The committee has recommended that people employed by labour hire companies should be deemed as employees of the host employer, not the labour hire company, as it is the host employer that has responsibility for maintaining a safe workplace. Labour hire companies have virtually no control over that. An example brought to our attention was that the labour hire company might not even see the employee; rather, it might contact him over the phone and inform him that it has a job for him at a certain place and he just turns up at the job. The labour hire company has the responsibility for workers compensation contributions, the premium, and the employer has none. The employer has all of the obligations under the Occupational Health and Safety Act to provide a safe workplace, but can ignore that given that the workers compensation payments are being paid somewhere else.

In the course of the inquiry we were reminded of a serious accident in, I think, New South Wales on a civil construction site when an employee from a labour hire company was seriously injured working with heavy equipment. The employee had had no training and I think the accident occurred in the first week or so of employment, which is the most hazardous for employees. The labour hire company has no control over what goes on in the workplace as far as that is concerned.

The committee was informed that the issue of employers classifying their employees into lower risk occupational categories is no longer a problem since the adoption of the ANZSIC industry rating system, that is, the categorisation of them, but the reporting still becomes an issue. The committee has recommended that the legislation be amended so that employers are required to provide insurers with quarterly wage and salary declarations.

The committee believes that by increasing reporting frequency employers will have the opportunity to monitor their wage and salary costs to ensure that the appropriate premiums are paid on the go, that is, that there be more frequent declarations of employee numbers in order that better surveillance of employer contributions can be made. There will be an argument from the government and, I suspect, from some employers that this would increase red tape and bureaucracy, as they always do argue, but we have to control this issue.

Mr Speaker, when you and I want to change our insurance on, say, our house or motor car, we can do it on the Internet or over the phone. If we sell our motor car or buy a new one, we have to have up-to-date insurance, otherwise we are not covered for that individual item. That is not so under the workers compensation scheme in the ACT.

You can enter into an arrangement for a number of employees at the beginning of a year and then at the end of the year, even if your employee numbers have grown, still pay the premium rate for the smaller number of employees. That might be illegal, but the incentive is there to do it. There are large savings if employers choose to follow that path.

That is something we are told is occurring throughout the ACT, more so in the building industry according to the evidence that we received. It is therefore appropriate for us to change the reporting frequency to get the employers into a position where they have to make repeated declarations of their employee numbers against the background of the law, which ought to be pointed out to them through the constant distribution of information which can be accommodated within the government arrangements as they now stand.

The committee supported the Workers Compensation Amendment Bill 1999 introduced by Mr Osborne as a means of further deterring dishonest employers from adopting underreporting practices. We received a last-minute submission from the government on this issue. I would like to draw particular attention to this matter. The submission from the government was received at the 11th hour. It was similar to the government's original submission to the committee, which also was late. That held up the deliberations of the committee.

What we found surprising about the submission in response to Mr Osborne's bill was that the government had it in its hands some time before February of this year and sat on it. We received it in April or May. That is non-cooperation from the minister in particular, again. He prevented us from receiving information which would have been relevant to our report. The submission referred to a report in relation to workers compensation that was in the minister's hands, according to a letter, in about February of this year. The committee asked for a copy of that report but was advised that it would not be receiving one because the government did not feel it was appropriate. That is another example of non-cooperation from the minister. Our job was not made easier by the minister's performance and it is becoming evident that something has to be done about the way the minister treats the committee system.

The committee was also concerned by the fact that only four ACT WorkCover inspectors are available to inspect the estimated 13,500 business operating in the ACT, and has recommended that employee organisations be able to inspect wage and salary records and that more inspectors be employed to carry out the inspections. It was the view of the committee that, without effective scrutiny, employers have very few obstacles in their path to stop them engaging in the practice of underreporting. The current system invites underreporting because significant savings can flow to employers if they choose to do so.

The committee went further. *(Extension of time granted.)* The committee recommended that an 80:20 rule be incorporated into the legislation as a test for determining the employment status of employees and workers versus contractors. This is often a bone of contention which ends up in the courts. It was put to us that an 80:20 rule would clarify the situation and result in fewer contested items finding their way into the courts and that it would make it pretty obvious who was and who was not an employee in the context of the workers compensation legislation.

The government and the Insurance Council of Australia both made mention in the course of the inquiry of the merits of such an approach, as did the CFMEU.

Mr Humphries: Cooperation.

MR BERRY: Mr Humphries interjects. I think his interjection is an attempt to debunk the CFMEU, as you would expect. The Liquor Hospitality and Miscellaneous Workers Union also made contributions freely to the committee process, in stark contrast to the government when asked for assistance in relation to certain matters.

In its submission to the committee at the 11th hour the government also raised problems with certain ILO standards. We were unable to consider the detail of those ILO standards because the government did not provide it in their submission and did not provide them before the last meeting of the committee.

The committee was also concerned about the proposal which is circulating to reduce the rights and benefits of injured workers, often some of the most disadvantaged in our community. The committee recommended that there be no reduction of these rights and benefits. There has been no case made out to reduce benefits in the ACT. It has long been an argument from particularly the employment side and the conservative side of politics that a reduction in benefits is an efficiency. We hear that often. Mr Speaker, the majority of the committee believe that this should not occur.

Mr Speaker, at this point, I would like to thank the committee's hardworking secretary, David Skinner. I would also like to thank those who took the time and effort to make submissions and appear to give evidence. I would like to thank the government for their submissions, albeit late ones, but I want to put on record my concern about the apparent lack of cooperation from the government. It was either deliberate or quite slack. Either way it has to be fixed up. Committees cannot be treated like that. Some reports I heard on ABC radio this morning in relation to this matter of the minister's performance were very concerning. Finally, I would like to thank my fellow committee members for putting the time aside from busy diaries to attend committee meetings and contribute to the process at a time of conflicting committee arrangements and Assembly arrangements. We as an Assembly and the community owe them thanks.

I will conclude there, Mr Speaker. I recommend that the government adopt this report in full in order that we can advance the cause of workers compensation in the ACT to the benefit of ordinary working people, all of whom are at risk of having their workers compensation entitlements affected, and also have a fairer system—a more level playing field, if you like—for employers who are placed at a disadvantage by a system which invites underreporting, among other things.

Mr Speaker, an employer in a particular industry who gains a commercial advantage over another employer in the same industry by virtue of underreporting wages and salaries and paying less in workers compensation premiums is therefore able to issue lower quotes for jobs in the community. That is an unfair commercial advantage which has to be stamped out. These measures will go a long way, we think, towards addressing that situation and levelling the playing field so far as employers are concerned.

Debate (on motion by **Mr Smyth**) adjourned.

DUTIES AMENDMENT BILL 2000 (NO 2)

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.54): Mr Speaker, I present the Duties Amendment Bill 2000 (No 2), together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this bill be agreed to in principle.

This bill implements a revenue initiative for the 2000-01 budget which will reduce duty payment to $20 for hospitals, schools and charitable organisations for the following purposes: establishment of a trust relating to unidentified property and non-dutiable property—the current duty is $200; transfer of property from one superannuation fund to another— currently ad valorem (minimum of $20) or $200, whichever is lesser; and transfer to trustees or custodians of superannuation funds—currently ad valorem or $200, whichever is lesser.

As all other transactions for hospitals, schools and charitable organisations are either exempt or subject to a fixed $20 duty where document stamping and/or handling is involved, this bill provides for a more consistent tax treatment of these types of organisations under the Duties Act 1999. I commend the bill to the Assembly.

Debate (on motion by **Mr Quinlan**) adjourned.

INSURANCE CORPORATION BILL 2000

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.55): Mr Speaker, I present the Insurance Corporation Bill 2000, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this bill be agreed to in principle.

I am pleased to present to the Assembly the Insurance Corporation Bill 2000. The purpose of the bill is to establish a statutory authority to manage the financing of the insurable risk of the territory and its agencies. The authority is to be known as the ACT Insurance Corporation or, inevitably, ACTIC.

The establishment of ACTIC is the next step in providing a sound basis for the insurance and management of the risks of the territory. The risks faced by the territory include not only those of any large organisation, such as property loss or damage, but also the significant areas of public liability and medical negligence.

Prior to 1997, the territory could be described as a non-insurer. There was almost no insurance or funding for the majority of the activities undertaken by departments and authorities of government. When payment was required to meet court judgments or settlements, the amounts had to be found from the budget for that year, even if the incident had occurred many years before. The unpredictable cash flow requirement had the potential to place considerable stress on the territory budget in any given year.

The first step in moving away from the position of a non-insurer was to take out from 1 July 1997 what is called catastrophe insurance. This type of insurance protected the territory from the impact of very large claims but did not insure against smaller claims or provide funding to meet those claims.

The next step was taken from 1 July 1998. From that date, all budget-funded agencies and most statutory authorities were required to pay a risk-based premium levy into a centrally managed fund. Territory-owned corporations are not part of the arrangements and have continued their separate purchase of commercial insurance. Individual agencies were still required to meet the first part of each claim through payment of an excess or deductible. The central fund was designed to meet the remaining amount of most claims. The catastrophe insurance was kept in place to protect the fund from large claims.

The establishment of a statutory authority is the next step in the development of the arrangements for the management and financing of the insurable risks of the territory. The existing arrangements suffer from a number of constraints, centred on the fact that the territory cannot directly access reinsurers or issue insurance policies because it is not an insurance company.

By dealing directly with reinsurers, the territory will be able to purchase reinsurance on more flexible, stable and favourable terms. There would be no change in the current practice whereby only highly-rated companies are selected for the insurance program. The current inability to issue an insurance policy can be an impediment in the negotiation of finance or operating leases for such assets as the government's motor vehicle fleet or buses.

The Insurance Corporation Bill 2000 responds to these restraints in the same way as other governments and large private companies, that is, by setting up what is known as a captive insurer. A captive insurance company is one set up by an organisation to insure its own risks. South Australia, Victoria and Western Australia have successfully established captive insurers.

In the ACT context, ACTIC will provide for the self-insurance of the territory's own risks. It will not sell or issue insurance policies to the public. The establishment of ACTIC will not add to the territory's risk exposure. It is a means of better managing and financing the territory's risks. The proposed arrangements will continue to provide financial incentives and expertise to assist agencies to focus on risk management.

ACTIC will be empowered to provide the full range of general insurance protection to all ACT government departments, statutory authorities, territory-owned corporations and entities in which the territory has a controlling interest. Budget-funded agencies and most statutory authorities will be required to insure through ACTIC. Territory-owned corporations may choose to be covered by ACTIC.

The board of ACTIC will consist of six directors. The Treasurer will appoint two directors from client agencies and two persons with qualifications or expertise relevant to insurance or risk management. The chief executive of the Department of Treasury and Infrastructure and the general manager of ACTIC also will be directors.

Mr Speaker, the Insurance Corporation Bill 2000 represents a logical extension of the self-insurance arrangements introduced by this government over the last three years. I commend the bill to the Assembly.

Debate (on motion by **Mr Quinlan**) adjourned.

LAND TITLES LEGISLATION AMENDMENT BILL 2000

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.01): Mr Speaker, I present the Land Titles Legislation Amendment Bill 2000, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this bill be agreed to in principle.

The Land Titles Legislation Amendment Bill 2000 contains a number of reforms to the law dealing with land titles in the ACT. Some are quite minor, while others are more important reforms. All are aimed at clarifying the law and making it easier to use.

The bill amends section 62 of the Land Titles Act, which provides for the replacement of a lost grant or certificate of title. Until now the Registrar-General has been required to publish in a daily newspaper circulating in the territory at least 14 days before the issuing of a new title document notice of his or her intention to issue the new grant or certificate. The requirement to publish often creates a difficult delay, especially when the loss of the certificate is not discovered until settlement is due under a contract.

Over a number of years it has become clear to staff at the Registrar-General's Office that the notices published in the *Canberra Times*, as the paper chosen inevitably, very seldom have any effect. This amendment gives the Registrar-General discretion to decide whether to advertise. It will allow the Registrar-General to consider all the circumstances before deciding that publication of a notice would be appropriate. This brings the Land Titles Act into line with New South Wales legislation on land titles, which does not require the publication of a notice before a new title deed is issued.

A major initiative in this bill is the facilitation of extensions of lease terms by surrender of a crown lease and grant of a new lease over the land to the lessee. The government has adopted the surrender and regrant mechanism as the most effective way of extending the term of a crown lease and to make that process as easy as possible for leaseholders this bill contains provisions to ensure that interests noted on the title at the time the old lease is surrendered will be carried forward and noted on the title relating to the replacement lease.

Existing provisions about the continuation of mortgages and subleases after a lease is surrendered and a new lease is granted in its place are clarified. Those provisions apply to crown leases as well as general leases. New provisions to carry forward other interests, including easements, caveats and writs, are included in the bill. This will ensure that lessees and holders of interests in leased land are not disadvantaged by the surrender and regrant process.

The bill includes provisions to allow a mortgagor of property to apply for a court order to sell the property. Everywhere else in Australia this power is already given by legislation. It appears to be rarely used, but it is something which becomes more relevant in a falling property market. If a mortgagor has little equity in a mortgaged property and the value of the property is falling, it is possible that the mortgagor may see the amount owed become more than the amount which could be obtained by sale of the property. Sometimes in such a situation the mortgagee refuses to allow the mortgagor to sell because the whole of the debt will not be repaid by the sale. For many reasons, including the desire to halt the increase in the debt, the mortgagor may want to sell. These new provisions allow the mortgagor to ask the Supreme Court to examine the situation and, if the court thinks it is just to do so, make an order that the property be sold.

The bill clarifies the position relating to land which is subdivided into unit titles. It amends the Land Titles (Unit Titles) Act 1970 to make it clear that if there was an easement over other land for the benefit of the subdivided land then the benefit of that easement passes to all the units on the unit title plan. Great practical importance is attached to this when unit developments are involved. If a block has access to the street by way of a driveway on an easement over the block next door, then when the first block is subdivided into units and several townhouses are built on it the owners of the townhouses will need to have the same right to use the driveway as the owner of the original block had before it was subdivided. This bill ensures that such is the clear result.
Other provisions in the bill make minor technical and housekeeping changes which are necessary to keep this legislation up to date. They include clarifying the Registrar-General's power to note miscellaneous interests created by other legislation and the removal of redundant provisions. I commend the bill to the Assembly.

Debate (on motion by **Mr Quinlan**) adjourned**.**

VICTIMS OF CRIME (FINANCIAL ASSISTANCE) AMENDMENT BILL 2000 (NO 2)

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.06): Mr Speaker, I present the Victims of Crime (Financial Assistance) Amendment Bill 2000 (No 2), together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill seeks to implement a recommendation of the Standing Committee on Justice and Community Safety by increasing the victims of crime levy from $30 to $50. Recommendation 22 of the committee's report on the inquiry into the Victims of Crime (Financial Assistance) (Amendment) Bill 1998 provided:

> The committee recommends that the government increase the amount collected under the criminal injuries levy and use it as a source of funds for the Criminal Injuries Compensation Scheme.

The committee also warned that the levy "should not be so high as to have an adverse impact on families of offenders". I think that the recommendation was also picked up by the same committee in its response to the draft budget.

The government has accepted the recommendation of the committee. Increasing the levy to $50 will allow a greater contribution to be made to the criminal injuries compensation scheme by those convicted of criminal offences, while not causing significantly greater hardship to the families of offenders. I commend the bill to the Assembly.

Debate (on motion by **Mr Wood**) adjourned.

MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT BILL 2000

MR MOORE (Minister for Health and Community Care) (11.07): I present the Mental Health (Treatment and Care) Amendment Bill 2000, together with its explanatory memorandum.

Title read by Clerk.

MR MOORE: I move:

> That this bill be agreed to in principle.

This bill clarifies the operation of involuntary detention provisions contained in the Mental Health (Treatment and Care) Act 1994. The bill represents an amendment to the act to ensure that doctors working with mentally dysfunctional and mentally ill patients can provide the most appropriate treatment. Currently, individuals who are at serious risk of harming themselves or others may be apprehended and taken to an approved health facility under section 37 and placed under an involuntary detention order through section 41 of the act, providing they meet the relevant clinical criteria.

The provisions of the current act do not provide for involuntary detention of the individuals who present voluntarily to an approved health facility and then choose to leave or refuse treatment. In these circumstances, the police, a mental health worker or a doctor would need to apprehend the person off the grounds of the health facility and then take them back to the facility. As you will appreciate, this causes unnecessary strain on all concerned and may result in individuals failing to receive treatment due to their absconding from the health facility.

This gap in the legislation was highlighted by the death of a man who voluntarily attended the Canberra Hospital, then left the facility and committed suicide. It has also been brought to my attention by Mr Ron Cahill in his capacity as president of the Mental Health Tribunal, who suggested that an amendment was required. The bill proposes to give authority to doctors in approved health facilities to place an individual under involuntary detention orders whether or not the individual has presented voluntarily or involuntarily. It also removes the requirement for a voluntary presentation to abscond from a health facility, be apprehended and then returned to the facility before such an order can be made.

The amendments proposed in this bill will close a gap currently in the act and ensure that individuals requiring emergency or involuntary detention for their own safety, or for the protection of others, can be detained and receive appropriate treatment. The existing requirement that all involuntary detentions must be reviewed by a doctor within four hours of detention remains. The stringent criteria for involuntary detention are also unchanged.

A consultation process, guided by a discussion paper which I am tabling today, will occur over the next five weeks. The consultation process is designed to increase community understanding of the need for these amendments, and comments received will inform debate on the bill in the Legislative Assembly. I will table that discussion paper later today. The discussion paper addresses concerns that the amendments may allow unjustifiable detention of people who have presented voluntarily to an approved health facility. It is unlikely that this will occur, given the strict criteria which individuals must meet in order to be placed in emergency detention. It should also be noted that under the current legislation, if an individual met the same criteria and was not within the approved facility, the individual could be apprehended, taken to the facility and placed in emergency detention.

These amendments have the support of the Director of Public Prosecutions, Mr Richard Refshauge, and the Community Advocate, Ms Heather McGregor, as well as the ACT Chief Psychiatrist, Associate Professor Cathy Owen. The proposed amendments do not change the criteria for being placed in emergency detention. The only significant change is the ability to place in emergency detention individuals who are at serious risk of harm to themselves or others and who are already within an approved health facility. These amendments will assist in improving the operation of the Mental Health (Treatment and Care) Act 1994. I commend the amendments to the Assembly.

Debate (on motion by **Mr Wood**) adjourned.

PSYCHOLOGISTS AMENDMENT BILL 2000

MR MOORE (Minister for Health and Community Care) (11.12): Mr Speaker, I present the Psychologists Amendment Bill 2000, together with its explanatory memorandum.

Title read by Clerk.

MR MOORE: I move:

> That this bill be agreed to in principle.

The Psychologists Amendment Bill 2000 amends subsection 3(2) of the Psychologists Act 1994 to make provision to include the regulation of practising psychologists employed in the public sector. The Psychologists Act 1994 was passed by the Legislative Assembly on 29 November 1994 and notified in the *Gazette* on 15 December 1994. The act commenced on 16 June 1995. It introduced statutory regulation for psychologists working in the ACT and made provision for controlling the practice of psychology and for related matters.

Introduction of this legislation was in accordance with an agreement of Australian health ministers to introduce uniform regulatory arrangements for health occupations. The introduction of the act demonstrated a recognition on the part of the ACT government that there was a potential for considerable harm to be caused to members of the public unless persons who provided psychological services were regulated by statute and were accountable for the manner in which they practise.

During the preparation of the legislation it was anticipated that all psychologists practising in the ACT would be regulated under the act. It appears that subsection 3(2) excludes psychologists working in the public sector from being regulated under the act. This means that a serious potential remains for considerable harm to be caused to members of the public by those persons. Persons who provide psychological services within the public sector must be subject to the same regulations as persons practising psychology in any other context.

This anomaly of excluding psychologists working in the public sector from being subject to the provisions of the act appears to occur only in this piece of health professions legislation. All health professionals who are employed in the public sector are subject to regulation under the respective acts with the exception of psychologists.

The Psychologists Amendment Bill 2000 amends section 3 of the Psychologists Act 1994 by omitting subsection (2) and replacing it with section 3A. This makes provision to include the registration of practising psychologists employed in the public sector to be regulated equally with psychologists employed in the private sector. As statutory regulation exists in the interest of protecting the public, this amendment will allow the Psychologists Board to administer the act in a manner which it can be confident in offering the public such protection.

Debate (on motion by **Mr Wood**) adjourned.

ESTIMATES 2000-01—SELECT COMMITTEE
Alteration to Reporting Date

MR CORBELL (11.15): I move:

> That the resolution of the Assembly of 11 May 2000, that established the Select Committee on Estimates 2000-01, be amended by omitting from paragraph (3) "by Friday 23 June 2000" and substituting "by 27 June 2000".

Mr Speaker, I have moved this motion this morning on behalf of the Select Committee on Estimates 2000-2001. As members will see, it is a straightforward motion. The committee has considered the timeframe it has available in which to prepare its report on the appropriation bills. We feel that the addition of three days to our reporting date will enable the committee, particularly the committee secretariat, to have a bit more time to prepare that report in what is already a very tight timeframe and have that report available to the Assembly on its next day of sitting. I commend the motion to members.

MR MOORE (Minister for Health and Community Care) (11.16): This motion extends the reporting date for the Estimates Committee to the Tuesday of the next sitting. This motion will cause the government considerable difficulty. The approach of the past has been to receive the report on the Friday before for ministers and their departments to work on the Estimates Committee's report over the weekend and prepare as best they can a careful response.

I understand that a tight timeframe was involved. If it is the will of the Assembly to extend the reporting date of the Estimates Committee, we will accept that; but it is important for us to put on record what the impact will be. It will mean that we will receive the report on, effectively, the Tuesday of the sitting week and the response from the government on it will be basically a political response. I would not be able to get the Department of Health and Community Care to do a thorough analysis of the committee's report and I think that it would be fair to say that other ministers would be in the same boat. Of course, the Treasury, which would take responsibility in this place for the overview, would be in an impossible position.

It is worth putting that on the record. Whilst I understand the need for the Estimates Committee to have as much time as it can to bring the report down, a timeframe for ministers to respond was built into the original motion. I would advocate the original motion as a better solution. We are prepared to accept this extension, if that is the will of the Assembly, but with the caveat that the response to the committee's report will not be of a kind that has had a thorough analysis by the departments. We will do our best—we will always do that—but it does have that ramification.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.19): Mr Speaker, I wish to add very briefly to what Mr Moore has had to say. It is important to make the point that this motion does, effectively, devalue the recommendations of the Estimates Committee if the committee recommends certain things which it wants the government to take into account in the budget, which is what this process is about. It is about doing an estimates job on the budget, saying that it is or is not right to do something in the budget. If, at the end of the day, the committee recommends that we should do certain things with the budget—change this, improve that

or whatever it might be—and we are given the recommendations on the day that the Assembly debates the budget, obviously we cannot possibly respond to them.

Mr Moore: We can apply them to the following year.

MR HUMPHRIES: We can apply them to the following year, if that is what the Assembly wants us to do in a long-term sense; but anything for this budget obviously cannot be done and the response will have to come some time later. A considered response presumably would come in the August sittings, which would be well after the budget has been passed. Members should be aware of that. It is not a particularly good comment on the Estimates Committee process if, in that sense, it so devalues recommendations that we do not have any chance to deal with them. We cannot take them seriously.

MR CORBELL (11.20), in reply: I understand the concern of the government. The committee is very conscious of the tight timeframe that this motion will place on the government. Let me put in context the reason for the committee's decision. First of all, we were advised that the government intends to bring on the Appropriation Bill for debate on the Thursday of the sitting week, the Tuesday being required to pass GST transitional arrangements bills. For that reason, we felt that there was some capacity for a couple of extra days.

Mr Humphries: Who said that?

MR CORBELL: Let me get to the nub of the question. The gentleman can claim that that is not correct, but that was our understanding. It was an understanding taken in good faith. Certainly, there was nothing political in that. The real issue here is the length of time given to the Estimates Committee to do its work. The government has set aside three weeks for the Estimates Committee to—

Mr Humphries: No, the Assembly set it aside.

MR CORBELL: The government proposed, and the Assembly agreed, the setting aside of three weeks for the Estimates Committee to do its work. It emerged quickly when members of the Estimates Committee sat down to look at how we were going to arrange our workload that a week and a half was not available for sitting because some members were away on other committee work.

It appears to be the practice in this place that other committees continue their work while the Estimates Committee meets. That may be something we need to reflect on and change in the future, but the current situation is that members of the Estimates Committee continue their work as members of standing committees of this place even when the Estimates Committee has been formed to examine the budget.

That meant that we had a week and a half to examine all departments and put together a report. That is a very tight timeframe. It is an extremely tight timeframe, particularly for the members of the committee secretariat who, obviously, prepare the draft reports for me and for other members of the committee.

I think that the government has realised what sorts of constraints the committee has on its time. For instance, we have had to ask the government to make the Treasurer available on the Monday of next week, having to postpone a cabinet meeting. I am grateful for the government's agreement to do that because, if that had not been possible, we would have lost another half a day. We already have two night sittings scheduled of the Estimates Committee just to examine all the agencies appropriately.

If we are going to take the time and do the work to structure a timetable to make sure that we can examine the agencies appropriately and ask ministers questions, we are going to need to take the time to put together a reasonable report. The timeframe presented in the original motion would have resulted in a draft report being prepared over one or two days, being forwarded to me as chairman of the committee and then being forwarded to the other members. That would have been an extremely tight timeframe. We felt that it was unworkable.

We are all under pressure here, not just the government. The committee is also under considerable pressure. Next week is going to be a very busy week. I regret the timeframe, but the committee feels that this is the only way for it to be able to present a reasonable report to the Assembly, and that is the requirement placed on us by the Assembly.

Question resolved in the affirmative.

APPROPRIATION BILL 2000-2001
Government's Program—Ministerial Statement

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, I seek leave to make a short statement advising the Assembly on the program for the next sitting week so that we understand where we are going.

Leave granted.

MR HUMPHRIES: The government will need to bring forward the budget bills for the beginning of debate on Tuesday, otherwise there will be no possibility of getting through the bills in the space of the three days set aside.

Mr Moore: But we do expect to be debating them on Thursday.

MR HUMPHRIES: On Thursday as well, of course, but we will start on Tuesday.

EDUCATION, COMMUNITY SERVICES AND RECREATION—STANDING COMMITTEE
Printing, Circulation and Publication of Report

Motion (by **Ms Tucker**) proposed:

> That the resolution of the Assembly of 21 October 1999 which referred the Draft Three Year Strategic Plan for Preschools in the ACT to the Standing

Committee on Education, Community Services and Recreation be amended by adding the following paragraphs:

"(2) that if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its Report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and

(3) the foregoing provisions of this resolution have effect notwithstanding anything contained in the Standing Orders.".

MR STEFANIAK (Minister for Education) (11.25): The motion is a sensible one. On this report, I do note that the committee has had it since 21 October last year and has sent it out for consultation. I note that it has asked for comments to be back by Friday, 28 April. There is some urgency here because any real delays in reporting may result in an inability to take steps for implementation in 2001. The department starts recruiting in August-September and if there were too much of a delay it might have to go over to 2002, so I would certainly urge the committee to use its best endeavours to finalise its report on the draft plan as soon as possible. I can see Ms Tucker nodding in agreement and I thank her for that. It is a sensible motion which we support.

Question resolved in the affirmative.

PRIVILEGES—SELECT COMMITTEE
Proposed Appointment

MR CORBELL (11.26): I move:

That:
(1) a select committee on privileges be appointed to examine, as a matter of privilege, the matter of the possible improper influence of a witness, Mr Gower in respect of evidence to be given to the Standing Committee on Planning and Urban Services;
(2) the committee be composed of:
(a) a Member to be nominated by the Government;
(b) a Member to be nominated by the Opposition; and
(c) a Member to be nominated by either the Independent Members, the ACT Greens, or the United Canberra Party;
(d) to be notified to the Speaker in writing by 4.00 p.m. on 25 May 2000.
(3) the committee report by the first sitting day in August 2000; and
(4) the foregoing provisions have effect notwithstanding anything contained in the Standing Orders.

This is a motion which I do not move lightly today. It is a motion I move because my colleagues and I are gravely concerned that the Minister for Urban Services and his officers appear to have behaved in a way which may have resulted in a breach of parliamentary privilege. I stress the word "may", Mr Speaker, because it is a matter which can only be properly considered by a select committee on privileges. That is why we propose such a committee's establishment.

Mr Moore: Mr Speaker, I am going to take a point of order. I apologise for doing this, but it is important to take a point of order here. Considering the seriousness of this matter and the absence of people on the crossbenches, I am calling for a quorum because there is going to be a judgment made and it is important that these people be here. Mr Speaker, I draw your attention to the state of the house. *(Quorum formed.)*

MR CORBELL: I will recapitulate. This is a motion which I do not move lightly. It is a motion I move because my colleagues and I are gravely concerned that the Minister for Urban Services and his officers appear to have behaved in a way which may have resulted in a breach of parliamentary privilege. I stress the word "may", Mr Speaker, because it is a matter which can only be properly considered by a select committee on privileges. That is why we propose such a committee's establishment.

In considering this motion members must keep in mind that we are not, I stress not, voting on whether Mr Smyth or his staff did anything wrong. That is for the select committee to decide. In considering this motion I am asking members to have the serious allegations made by Mr Gower properly investigated.

Mr Speaker, the matter I am concerned about is the evidence given by Mr David Gower at the public hearing of the Standing Committee on Planning and Urban Services on 5 May this year. At this public hearing Mr Gower claimed that the Minister for Urban Services, along with officers of his department and his personal office, pressured the Gungahlin Community Council, of which Mr Gower is president, into changing its position on the issue of the route for the Gungahlin Drive extension. The minister did this, Mr Gower has claimed, by telling Mr Gower that, and I quote from the transcript:

> If the Eastern Route does not get up, then Gungahlin will not get a road.

Not may not get a road, Mr Speaker, not possibly will not get a road, but will not get a road. When questioned on this claim by me, Mr Gower was asked if he was suggesting that the minister himself had given the indication that the road would not be built if the eastern alignment was not successful. Mr Gower replied that he was "not just suggesting it … he did". I repeat that. Mr Gower said the minister was not just suggesting it, he did.

Mr Speaker, what we have here is a clear and direct statement from a witness before an Assembly committee alleging that he and the organisation he represents were pressured into changing its view and therefore the evidence he was to give on its behalf to a committee of this place. The change he alleges occurred from pressure placed on him by the minister. That is the heart of the matter, Mr Speaker, and that is why a select committee should investigate it.

The clear and explicit point made by Mr Gower in his evidence is that the threat was support the government's alignment or there will be no Gungahlin Drive extension built at all, and this is an outcome which, clearly, no community group representing the Gungahlin community would want to see. It would appear, based on Mr Gower's evidence, to be a threat made to improperly influence the Gungahlin Community Council to change the evidence it would give before an Assembly inquiry. If that is found to be the case following an investigation by a select committee on privileges, then it would be a breach of privilege.

Mr Speaker, I draw members' attention to *House of Representatives Practice*. It states:

> … a person shall not, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means, influence another person in respect of any evidence given to or to be given before a House or a committee ...

The claim made by Mr Gower, in evidence before an Assembly committee, is that the Minister for Urban Services, his officers and his personal staff threatened that if the Gungahlin Community Council did not give its support to the eastern alignment, the government's preferred route, it would not build the Gungahlin Drive extension at all. Mr Speaker, this is highlighted again by Mr Gower's evidence in an exchange between Mr Gower and me, and I quote again from the transcript. I asked Mr Gower:

> So is it the case that you have now decided to go with the eastern alignment, albeit in a slightly modified form, simply because the government has indicated that if it is not that alignment, it is no alignment?

Mr Gower replied:

> Yes. Pressure was put on us to a degree that if we did not support the government's option, which is the eastern alignment, we would not get a road.

All members in this place should be concerned by the claim by the President of the Gungahlin Community Council that the council changed its view on the Gungahlin Drive extension, and thus the evidence it would give before an Assembly committee, from not having a view on the route at all to support for the eastern alignment because of pressure from the minister and others that if they did not support the government's view no road would be built at all. Mr Speaker, there is a clear allegation from Mr Gower that the view, the evidence, that the Gungahlin Community Council was planning to give to the standing committee inquiry was changed as a result of a threat from the minister and others to not build the road at all if support was not forthcoming for the eastern alignment.

Mr Speaker, the nub of the issue is this: if a committee inquiry of this Assembly cannot receive evidence which it can safely assume is in no way improperly influenced, then the committee system will cease to properly operate. Never again will committees be able to rely on the evidence given to them in inquiries to be free of influence, threat or coercion.

There is no doubt that this is a very serious matter and that it must be properly investigated. It must be properly investigated to either confirm the claims made by Mr Gower or to clear the minister and his officers of the allegations which have been made before the committee. It must be properly investigated so that the committee knows for sure that what Mr Gower said was in fact the case, or that the committee knows for sure that Mr Gower's evidence was not accurate. Most importantly, Mr Speaker, it must be investigated to establish whether the privileges of the Assembly have or have not been breached. Those are the reasons for a select committee on privileges and for this motion today.

This is not a motion on whether or not Mr Smyth and his officers breached the privileges of the Assembly. We are not conducting a trial. We are considering whether the issue should be properly investigated.

Mr Speaker, Mr Gower's evidence is stark and explicit. He alleges pressure from the minister and his staff to change the evidence his organisation was to give to the committee inquiry. It warrants an inquiry by a select committee on privileges.

MR SMYTH (Minister for Urban Services) (11.37): Mr Corbell says that he thinks that the nub of the issue is that undue pressure has been put on Mr Gower. The nub of the issue is that Mr Corbell chooses to make one interpretation of what Mr Gower said, even though Mr Gower has since refuted Mr Corbell's interpretation.

Mr Corbell has said that this is about determining what the President of the Gungahlin Community Council said and meant in the urban services committee and whether there has been any undue influence. The government believes from the events that have taken place that this question has been resolved by the person who made those comments, albeit comments that were ambiguous, but which have since been clarified by the author himself because of the confusion those comments have created.

Mr Speaker, what Mr Gower believes he said and what Mr Corbell believes Mr Gower said seem to be two different things. Because of this and because of Labor's refusal to believe Mr Gower himself, through his clarification, we are here today debating this motion.

Mr Speaker, it is purely politics. Mr Corbell does not want to believe Mr Gower. Why? Because Labor's interpretation of events gives him a chance to play politics and have a cheap shot at me, a member of the dreaded government. So here we are, pandering to Mr Corbell's political game.

Unlike Mr Corbell, I have chosen to believe the person who made the comments in the quest to determine what they meant. I can only make a judgment based on what I have been advised, and once again, as I have done before in this place, I will explain what I know. Mr Speaker, I believe that that information shows that this motion is unwarranted. It is like using a sledgehammer to break an egg.

Mr Speaker, as I have said before, this is what occurred on that day when the comments in question were made by Mr Gower in the urban services committee. I was interstate on that day at a ministerial meeting. Staff in my office received calls from the media wanting a response from me in response to what Mr Gower is alleged to have said. My senior adviser contacted Mr Gower to ask what he had said in the committee hearing as we were being asked for media comment. My senior adviser had not been in the committee hearing. Indeed, none of my staff, had been in the committee hearing.

After they explained what the allegations were that the media were asking for our reaction to—essentially those contained in the press releases from Mr Corbell and Ms Tucker—Mr Gower advised that he had been misunderstood and that the statements being made by them were not correct. My adviser then asked whether, if that was the case, he was going to clarify the situation, to which Mr Gower said, "Yes." I understand that he called the media that were doing the story late Friday afternoon. My senior

adviser asked whether he could also put his views in writing, suggesting a letter to me, Mr Corbell and Ms Tucker so that we were all aware of the clarification. Mr Gower in fact chose to later write a clarifying statement, the one that Mr Corbell has such a problem with. My office received the fax, I think, the following Sunday.

I reiterate; I did not bully or force the Gungahlin Community Council into supporting the government's route, nor did any of my staff bully or force it to write that statement. Mr Corbell uses the words "appear to" and "may have". Well, Mr Speaker, I am not going to get involved in a who said what argument when I was not there. No-one can reasonably expect me, therefore, to comment on it.

Whether you like it or not, David Gower said this. I will read and then table this. This is not Mr Corbell's interpretation of what was said, but the words and the clarification of the person who said them. Mr Speaker, this is Mr Gower's statement. It is on the letterhead of the Gungahlin Community Council Inc. The heading is:

> Gungahlin Community Council Does Not Support Calls For Smyth To Resign.

I think Mr Corbell's press statement called for me to resign. Mr Gower's statement goes on to say:

> The Minister for Urban Services, Mr Brendan Smyth, did not give the Gungahlin Community Council an ultimatum on the route for Gungahlin Drive Extension or no road as expressed by Mr Corbell.
>
> The Gungahlin Community Council is now witnessing the continued hijacking of an important debate on roads by politicians for their own political purposes.
>
> Mr Smyth was invited to a meeting of the Community Council to discuss roads and other issues relevant to his portfolio. At the meeting he responded to a number of questions from those present relating to the proposed extension of Gungahlin Drive. Mr Smyth being aware of some of the intense hostility directed, not only at the government's preferred option, but to construction of any Gungahlin Drive Extension, encouraged the Community Council to generate more support for their preferred road from Gungahlin.
>
> Because of the intense hostility from a number of community groups and Assembly members to the eastern alignment and in some cases the mere existence of any road, the Community Council felt compelled to enter the debate to avoid it being hijacked for narrow vested interests.
>
> Mr Stanhope, Leader of the Opposition, entered the Standing Committee on Planning and Urban Services late. Without having the courtesy to be present for the entire submission, he accused Mr Smyth of blackmailing the Gungahlin community. We refute this! Mr Stanhope has on two occasions publicly stated opposition to a Gungahlin Drive extension … (Maunsell Workshops and after his election to the Legislative Assembly). His only interest was political gain NOT public interest.

> Ms Tucker invited the editor of *Gunsmoke* to her office to ask why the Gungahlin Community Council was now fighting so hard to support the road. This could be construed as political interference of a similar kind to that which Ms Tucker and Mr Corbell are directing at Mr Smyth.
>
> The Community Council had hoped that due process would have been followed by members of the ACT Legislative Assembly to assess the most suitable route in view of the extensive studies already taken. This is still our hope, however, the campaign by conservation groups has caused us to be more assertive in order to ensure that a clear transport corridor is preserved for present and future needs.
>
> It was the combination of these pressures, which compelled the Community Council to enter the debate and choose a route to support.
>
> This is exactly the kind of political hijacking the Council, the residents and businesses of Gungahlin are heartily sick of. We call on all members of the ACT Legislative Assembly to stop wasting time and money and get on with building the road.
>
> The Community Council is asking elected members why Mr Brendan Smyth seems to be the only politician who is concerned with the true interests of the Gungahlin residents?

That is signed by David Gower, President of the Gungahlin Community Council, Mr Speaker. I table that document.

Furthermore, the secretary of the community council wrote to me about her views of what I have said after I had spoken to her about her recollection. I asked her to put her views in writing. I would now like to read the letter from the Reverend Roma Hosking and I will then table it. It says:

> Dear Brendan,
>
> I wish to assure you that I am disappointed that members of the opposition have chosen to take out of context remarks made by you at the April meeting of the Gungahlin Community Council in response to my question concerning the need for Gungahlin residents to write letters to the Standing Committee on Planning and Urban Services in order to make our views known about the need for the extension of Gungahlin Drive (formerly known as the John Dedman Parkway).
>
> As you and I both know you were the invited guest and at the above meeting and the subject of roads was chosen prior to the meeting on our initiative, not yours, so those who are accusing you of manipulating or blackmailing the community are doing so under false pretences. It is true that the Community Council Executive did "not tell people which route to choose" but encouraged them to write their own letters. David Gower did write a sample letter which folks could copy if they chose and some folks may have done this. I also wrote a letter which was available to people as an example of the kind of clarity which I believed would be helpful.
>
> Please note that several members of the executive of the Community Council attended the Maunsell workshops in 1996 and at those workshops we made it

> clear that we preferred option 3 (map enclosed) which had links to Barrie Drive and to Caswell Drive, now known as the eastern route—the government's preferred route. This pre-dates the present discussion by 4 years.
>
> In response to the question "Do we feel any pressure to lobby for a transport corridor and a particular route?" The answer is Yes! That pressure is coming from the very vocal and in our view unbalanced lobby being put forward by the "Save the Ridge" group. It was because of the concerted effort by this group that we became worried that implementation of a suitable transport corridor for Gungahlin/North Canberra would be hijacked. We had already seen evidence of this at the Maunsell Workshops which is why we invited you to attend our meeting and why we asked assistance on how to run a campaign. This is surely our right. We appreciate your assistance in this matter. We have begun to feel that you are the only politician listening to our concerns.
>
> I object to the notion that somehow the Greens, namely Ms Kerry Tucker can ask me to come into her office to discuss my choice in favour of the Eastern Route for the Gungahlin extension while you are called into question for "influencing" this community. Ms Tucker was clearly trying to influence me to change my mind. Her view was clearly against the eastern route and in favour of the Western route if there had to be a route. I call on those accusing you of improper conduct to apply the same rule to themselves or drop the charge.
>
> Brendan, please continue to represent the interests of the Gungahlin people. Please do not allow members of the opposition to hijack the process which needs to be put in place in order that residents of Gungahlin be able to get to and from work in good time and reasonable safety.
>
> May the Lord grant you wisdom and shrewdness of mind as you seek to serve others for the best in this lovely city of Canberra.
>
> Yours sincerely

It is signed Roma Hosking, pastor of Cornerstone Christian Church and editor of *Gunsmoke Newsletter*.

Mr Speaker, this morning on the radio Mr Corbell got a run with his press release announcing this inquisition. I have a transcript of an article that ran on Canberra radio FM104 news—it says here—at 7.30 am on 25 May 2000. The header reads:

> Labor's Simon Corbell will seek an inquiry into claims Urban Services Minister Brendan Smyth put pressure on the Gungahlin Community Council.

The transcript is as follows:

> Newsreader:
> Labor's Simon Corbell this morning will ask the Legislative Assembly to consider setting up an inquiry into claims Urban Services Minister Brendan Smyth put pressure on the Gungahlin Community Council to change its position on the route of the Gungahlin Drive extension.

> But Roma Hosking from the council has hosed down claims pressure was put on the council by Mr Smyth to support the government's option of the eastern alignment, or not get a road at all.

It then crosses to Roma Hosking from the Gungahlin Community Council and says:

> Now, he didn't put pressure on us; we asked him the question and he was responding to our concern. And I think …

Then the announcer cuts in and says:

> So you're fairly positive as to his stance?

It goes back to the Reverend Roma Hosking and she said this:

> Yes. So, you know, we have chosen our own option. Had we wanted to choose another option, we could have.

I will table both Roma's letter and the transcript from this morning, Mr Speaker. Why did we ask for each of these views in writing? Because, based on the past action of those opposite, we all know that they would not have believed me if I had got up in this place, say, during question time and verbally relayed what these people's views were. I needed to be able to have that information in writing to present to the Assembly, unlike Mr Quinlan, who the other day queried Mr Humphries' use of the $344 million figure that is listed in the Auditor-General's report. Mr Quinlan resorts to the use of unsubstantiated conversations.

Mr Speaker, I have come in here with written statements supporting my version of the events. Mr Corbell comes in here with nothing more than allegations against a member of my staff—not me, Mr Speaker, but a member of my staff. Mr Speaker, I will leave it to my colleague the Deputy Chief Minister to make the points about ground hog day repeated because that is where we are back to—the Labor Party's ground hog day. *(Extension of time granted.)*

In relation to the allegations that departmental staff may have acted improperly, my department has looked into the issue and has been unable to identify any officers who could have been involved in any pressure tactics. Moreover, very few PALM staff appear to have had significant contact, if any, with the Gungahlin Community Council. Importantly, had Mr Corbell bothered to attend the Gungahlin Community Council meeting he too would have known exactly what I had said. In relation to my own staff, no pressure tactics have been applied in the way Mr Corbell has alleged. I spelt this out earlier in more detail. The allegations are ridiculous and are unfair. So, Mr Speaker, the evidence is clear. It is all here. What more evidence could a select committee obtain that is not already before you from the clarifications of David Gower and the Reverend Roma Hosking?

Finally, Mr Speaker, I add an important point, one that the urban services committee would have been oblivious of when Mr Corbell started this course. At the time that this was all going on the government was preparing its budget for the year 2000-2001 and in that budget we announced the extension of Gungahlin Drive. The proof of the pudding is in the eating. Now, why would we be pressuring a community group and saying that if

you do not support our route you will not get a road at all? That is the allegation. We have put in place the mechanism to supply that road. What is more, Mr Speaker, we have Gungahlin Drive in the budget and we specifically point out that the money is allocated even though the route is yet to be determined and is dependent on the process.

If we wanted to be bloody-minded about the route we would have said the funding is dependent on the eastern route being chosen, but we have not. It does not make sense, Mr Speaker. In fact, you could easily argue that it is the government that is being pressured by the people of Gungahlin, through traffic numbers, population increases, et cetera, to build the Gungahlin Drive.

Mr Speaker, the government will not be supporting this motion as it clearly has no substance. I have amendments to the motion that, quite rightly, should refer the matter back to the urban services committee which is where it belongs.

MS TUCKER (11.54): Mr Speaker, I did attend the public hearings where David Gower presented his submission and I was very surprised to hear the allegations that Mr David Gower made—that the minister and members of his office and PALM officials had suggested to Mr Gower that unless the Gungahlin Community Council supported the eastern alignment of the Gungahlin Drive extension they would not get any road at all. I am very interested in Mr Smyth's speech and his statement that clarification was made by Mr Gower. Clarification is a word that one does not usually associate with a totally opposite position. In that committee hearing Mr Gower made it quite clear in answer to questions. I quote from the transcript:

> MR CORBELL: Has the government indicated to you in any way that if Gungahlin does not support the eastern alignment, there will be no alignment?
>
> Mr Gower: No, not directly. It has been intimated—
>
> MR CORBELL: Has it been suggested in any way?
>
> Mr Gower: Outside of the government, yes, that if we did not support the proposed route, then we may not get a road at all.
>
> THE CHAIRMAN: Could you qualify that?
>
> Mr Gower: Yes. In discussions with PALM and members from Mr Smyth's office, it was intimated that the government would be pressing for one option, and one option only. The community in Gungahlin want a road. …
>
> MR CORBELL: That was put to you by representatives of the minister's office?
>
> Mr Gower: Yes.
>
> MR CORBELL: And PALM?
>
> Mr Gower: And PALM. In discussions about the road…

Later on Mr Gower said:

> Yes. Pressure was put on us to a degree that if we did not support the government's option, which is the eastern alignment, we would not get a road.

Then, later on, Mr Rugendyke said—and I quote again:

> Mr Gower, you have expressed concerns about the pressure that may have been exerted. Have those concerns been minuted in any way in association minutes or in any other form of documentation?
>
> Mr Gower: No, they have been quiet chats at Christmas drinks and when we had the minister at our meeting, a quiet aside at that point.
>
> MR RUGENDYKE: Discussion with the minister or?
>
> Mr Gower: Yes.
>
> MR CORBELL: You are suggesting that the minister himself has given you that indication?
>
> Mr Gower: Not just suggesting it—
>
> MR CORBELL: He did?
>
> Mr Gower: He did. At the recent meeting we had Brendan Smyth, at our March monthly meeting of the community council and in a private discussion as he was walking out of that meeting, he said to me, quietly, "If the eastern route does not get up, then Gungahlin will not get a road."

Now, it actually goes on. I could read more but I think that has made the point about why we are concerned about what has gone on here.

Mr Smyth is now saying that clarification later from Mr Gower totally discounts all that evidence that was given to a committee of this place. It is not clarification. It is a complete reversal of position. That is why people on the outside looking in are concerned. That is why people on the outside say, "Why would a person say A at one point and then suddenly totally switch to B? Has something happened in between times?" Obviously, in this case, because the concern was that further pressure was put on this community group.

I will say that the Gungahlin Community Council has been in some confusion about where it wants the road, and I have made comments about that in the past. I thought it was of concern that a letter was put out in *Gunsmoke* asking people to sign a letter calling on the committee to understand the need Gungahlin residents felt for a road, but not a particular route, and also support a submission that would be later written. So that is an interesting process in itself.

I would be very cautious about signing a letter that said I support a submission which I have not seen. Mr Moore made that point yesterday in a debate here even though the material was available. He was saying he did not want to support something if he had not read it. That would not be so bad, I suppose, if people did have confidence that the letter

they were signing and the view that was represented in that letter would be reflected in the submission, but, of course, as we know, that submission took a different line anyway.

So on the issue today in this debate, I support this motion because I think some quite extraordinary circumstances have occurred in this place, and for the ACT community to have confidence in this Assembly we have to be seen to be not afraid of looking at these sorts of issues.

We had a budget delivered this week which made great and extensive use of the concept of social capital. Social capital is to many of us at least very strongly connected with the concept of trust, and trust in institutions as part of the overall model of social capital. The institution of government is clearly an important institution. These sorts of processes in parliaments are absolutely essential for the accountability and credibility of parliaments. Extraordinary events have occurred. Evidence was given in a committee in the way that I have outlined, and then there have been contradictory statements.

Mr Smyth should not be afraid of this if he is so confident. Mr Smyth should welcome this. He said he wants to be able to show how absolutely integrious his government is and how they desire to instil trust in the community. So I am concerned to hear Mr Smyth rejecting it. He should be saying, "Yes, this is a quite appropriate process. I am confident of my position and I welcome any kind of inquiry." I also want to comment on the letter. It is the second time—

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allotted to Assembly business be extended by 30 minutes.

MS TUCKER: Mr Smyth has read out for the second time the documents from Ms Hosking and Mr Gower, so it is on the record again. I will make no comment about Ms Hosking's statements except to say that I invited her to speak to me if she would like to about the position of the Gungahlin group that she represents. She welcomed the opportunity. It was an amicable conversation. We discussed different views, as I do with everybody who comes into my office. My staff member would be happy to confirm that there was no animosity or acrimony in that discussion at all. Ms Hosking thanked me for the opportunity for the discussion when she left.

As I understood it, it was a perfectly reasonable discussion between an elected representative and a member of the community. I have no idea why Ms Hosking is now taking this line. That is her choice, but I reject her insinuations that in some way I was politically trying to interfere. Of course, we had an exchange of ideas, which was perfectly reasonable.

MR MOORE (Minister for Health and Community Care) (12.02): Mr Speaker, this gets curiouser and curiouser.

Mr Corbell: Indeed it does.

Mr Stanhope: You are rarely independent. The independent Mr Moore.

MR MOORE: Mr Speaker, we have listened in silence to—

Mr Stanhope: Yes, in stunned silence.

MR MOORE: I would ask you to warn Mr Stanhope in particular if he keeps doing this. It was interesting to hear Ms Tucker complete her speech with an almost identical description. She cannot understand why somebody would take that view. I think that is particularly interesting, Mr Speaker, but not as interesting as the premature nature of this motion. We have a situation where a submission is made by a community council, and then somebody appears before a committee and says the things that have been quoted. I must point out, Mr Speaker, that they have been quoted from a draft *Hansard,* but we still accept the general thrust of what is there.

Mr Stanhope: Desperate, desperate.

MR MOORE: Mr Speaker, we are dealing with a very serious matter. We have Mr Stanhope doing his standard process—

MR SPEAKER: Order! I agree. I uphold the point of order. I want this matter heard in silence, otherwise some people will not be listening for very long.

MR MOORE: Mr Speaker, even as you spoke Mr Stanhope made an interjection and then did what he is doing now. He should be warned. Mr Speaker, this is an extraordinarily serious matter, and it is important to understand that this is premature. When we have a situation where we have a misunderstanding of this kind, where we have a statement made within the committee and then somebody saying, "No, that statement I made was incorrect," why do we not have Mr Corbell saying, "Well, let's recall Mr Gower and get him to clarify in a committee situation what his opinions were"?

What happens in these committee situations? I do not know how many members here can remember appearing before a parliamentary committee as an easy task. In recent times I have appeared before a number of federal parliamentary committees, the last one being about six weeks ago. I can tell you today, as somebody who is as experienced at doing these things as I am and having appeared before federal parliamentary committees on a number of occasions, it is still an extraordinarily nerve-racking experience. I do not think you should underestimate the pressure that somebody comes under when they appear before an Assembly committee. It is a very formal process and it does put a great deal of pressure on people.

That being the case it would seem to me to have been logical for Mr Corbell to say, "I have this particular concern. Look what's going on. Why don't we bring Mr Gower back in here and ask him what is happening?" That would have been the first step and that may well have led to this motion for a privileges committee.

Mr Corbell put to us very succinctly that this is not a motion of innocence or guilt. It just seeks to set up a committee in order to look at what Mr Smyth has done.

Mr Corbell: And what Mr Gower has alleged.

MR MOORE: And he now says what Mr Gower has alleged. Mr Speaker, it is important for us to understand what happens under these circumstances. If that was the case it would not be accompanied by a huge amount of publicity. We know that the trial of Assembly members does not happen there. The impact is not what happens in the privileges committee. It is the public perception of what happens. It is a public perception that Mr Corbell has already been running particularly strongly from day one when this occurred and he began his questions in question time, which he is entitled to do, and his press releases on the matter. The trial has begun and Mr Corbell is out there in the public, accusing and running the evidence.

Unfortunately, Mr Speaker, this is what we are seeing from Labor since Jon Stanhope has become the leader of Labor in this area. It is not a surprise. It is a Keatingesque approach, and we know where he had his training. The surprise is that it is Mr Corbell who is actually running it.

Now, put that in the context of what Ms Tucker raised about social capital. Social capital is about building trust and trust in the systems. If you really were looking to develop social capital and trust in the systems, this matter of privilege would have been brought to the Assembly and dealt with in the Assembly, which is a public forum. Granted, that may well have been reported as a matter that was being considered. But no, it is not done in that way. Accusations are being made very publicly in a series of ways in order to ensure that there is some mud sticking on Mr Smyth before we know whether or not he is guilty or innocent. So it is an important part of the process and each and every one of us who is involved in politics understands that process. We understand the impact of mud. We understand how we stand. What have you got in terms of your approach in public? You have yourself, you have your sense of yourself, and that is what is being attacked. This is a reiteration of an approach that we have seen.

Let us just look at the process. It is not a process that you can do lightly. It is a very important process. It seems to me that we should go back to the proper process and let the planning committee bring Mr Gower in, probably, if Mr Gower wishes, in a confidential way so that he is not under the extra pressure, because now that this process is so public it is likely to have a great deal of public interest. If you are really interested in finding out what the truth is and what has happened, that ought to be the first step.

If it is not going to be the first step, what should a privileges committee like this do? How should it operate? We don't know in this Assembly because we have never had one. What we have to do, therefore, is look at *House of Representatives Practice*. It is interesting to read what *House of Representatives Practice* says about how a committee of privileges should operate.

First of all, the chair of the committee is normally a backbench member of considerable parliamentary experience and sometimes a minister. Mr Kep Enderby, when he was minister—he was one of the local ACT members—was chair of such a committee. There would normally be lawyers on the committee. *House of Representatives Practice* gives a series of descriptions of how serious the matter is and then it talks about the committee's authority and jurisdiction. It looks at its authority and its jurisdiction and how it operates. There is a series of pages about the procedures of this sort of committee which demonstrate just how seriously they are taken.

It is also important to note that in *House of Representatives Practice* there are some penalties that apply when people do not cooperate when they are working with committees. In fact, committees of the House of Representatives and other parliaments in Australia can actually use imprisonment. There is a parliamentary process for imprisonment.

Mr Stanhope: We cannot.

MR MOORE: We cannot. Do not interject. This is a serious matter. Can I finish? Mr Speaker, not only is there a process of imprisonment. There is also a process of fining up to $5,000. We do not have that process. So what happens if the committee decides to call on Mr Gower and Mr Gower decides to do one of two things? He could sit there and just repeat what he has to say, which would be a normal process for somebody who has a written statement, or, as is shown in *House of Representatives Practice* for such a committee, he could have a lawyer with him, which he is entitled to do. That is another possibility, and look at the expense associated there. Also, he could decide not to come. If he decides not to come, sorry, guys, that is the end of it, and the Assembly looks silly again. In *House of Representatives Practice* there is power to bring people in. This Assembly does not have that power. He could simply refuse to appear, and then how do you draw your conclusions?

Mr Kaine: You can summon him to the bar.

MR MOORE: We can summon him to the bar. Mr Kaine is correct. We can summon him to the bar and if he refuses to come what do we do? You ought to think about that because what happens if he refuses to come is not at all clear. In my opinion, having read through *House of Representatives Practice* and where we are, I doubt that we have the power to bring somebody to the bar. We certainly have the power to invite somebody, but there are issues there in terms of what this committee is and what it does.

It is appropriate for us to look back. Because we have already begun a process of publicly talking about what Mr Smyth has done wrong, there is a sense of the Star Chamber about this. I raise the Star Chamber quite deliberately. You may remember the court of the Tudors, the Star Chamber, which was in place for quite some years. Basically it became representative of what was unjust and inappropriate because it had no jury. Depositions were taken from witnesses and the proceedings were very limited. *(Extension of time granted.)* As the *Columbia Encyclopaedia* says, in its later period the court was so reviled that the Star Chamber became a byword for unfair judicial proceedings.

Of course, we know about another star, and this is what I am leading to. I am not particularly worried about that one. I am leading to Ken Starr and his investigation into Clinton and that situation. Why draw that to attention? There, it was not the proceedings—

Mr Corbell: You are getting desperate. Get back to the issue.

MR MOORE: This is the very nub of the issue and if you listen you will understand why, Mr Corbell.

Mr Corbell: I have been listening and it is a load of nonsense.

MR MOORE: The reason is this: that process was not about what happened in the judicial proceedings. It was about what happened publicly. That is what we are dealing with here, what happened publicly. It is exactly the same situation as when Joe McCarthy was doing his witch-hunts in a committee. It was not to do with what was happening so much in the process; it was to do with what was happening publicly.

Mr Speaker, it seems to me there is something that is much more important than those things. A particular person who is a volunteer and a community member has been put under this pressure when all that had to happen when he wrote the letter was for the planning committee or Mr Corbell to invite him back to the committee to try to sort this out. That was the proper process, and that is the process we should have gone back to.

Mr Corbell: That is an admission that something is funny here.

Mr Quinlan: The pressure might be working.

MR MOORE: It is not an admission that there is something wrong at all. It is a way of finding out why he had done that or what he was doing, and why he had changed his mind in terms of the planning committee. That is what you should have done. From there it might be appropriate for the committee or for a member to bring up this matter of privilege in this way.

Mr Corbell correctly raised the matter of privilege as he understood it to the Speaker, and I do not have any problem with it being raised. The Speaker determined that the matter did not have precedence. That is understandable. Before that, it seems to me that it was logical simply to let the planning committee take it up, but there was political mileage from doing something else, and that is actually what this is about.

Mr Speaker, I would like to conclude by adding a personal element on this. At the last election when Mr Corbell packed up his office I said to him I was extraordinarily disappointed that he had not been elected, and I meant that. When we realised he had been elected I went to him and I said I was delighted that he was back, and I meant that too. I have on many occasions, publicly and privately, expressed my opinion that Mr Corbell is one of the best Labor members in this chamber, and one of the best members of the chamber. I have often said that, and I believe it. But I have to say I feel extraordinarily sad at this approach on this occasion. I always like process to be followed. This time, Simon, you have got the process wrong.

MR STANHOPE (Leader of the Opposition) (12.16): The issue really is very simple. It is being complicated by those on the other side wishing to build a defence at this stage by suggesting that there is simply nothing to inquire into or investigate. The simple facts of the matter are so plain and so obvious. The simple facts of the matter are as set out in the *Hansard*. The simple fact of the matter is that Mr Gower, the President of the Gungahlin Community Council, has made certain statements to a committee of this place.

The giving of evidence is a serious thing and the President of the Gungahlin Community Council spoke in the most unequivocal language. As Mr Rugendyke asked in his question yesterday, Mr Gower spoke in terms of a yes/no answer. Mr Rugendyke was a part of the committee that asked those questions and I believe from what Ms Tucker has just read out that one of the questions asked by Mr Rugendyke of Mr Gower was answered in a yes/no fashion. When Mr Rugendyke asked whether or not pressure had been brought to bear, Mr Gower was prepared to indicate to Mr Rugendyke that, yes, pressure had been applied to the Gungahlin Community Council in order to get them to adjust their views, their submission, on the preferred route for the Gungahlin extension.

Members of this place were either present when Mr Gower gave his evidence or perhaps were listening to it. I was present for some of it. I heard Mr Gower say unequivocally that, yes, pressure was brought to bear. I heard him say it, and I read about it in *Hansard*. That is what he said. He said it freely. He said it of his own volition. He was not under pressure. He was asked to repeat it. He was asked to repeat it a couple of times by Mr Corbell for clarification. He was actually asked a question by the chairman of the committee, Mr Hird, and he repeated the same information. Mr Rugendyke asked questions on the same matter and he spoke in the same terms. He said it not once, he said it not twice, he said it a number of times—

Mr Moore: But why believe you. You're a liar.

MR STANHOPE: And in response to each of the questions he was asked he confirmed the information.

Mr Corbell: I raise a point of order, Mr Speaker. I just heard Mr Moore call Mr Stanhope a liar. I think that is most unparliamentary, and I would ask you to invite him to withdraw it.

Mr Moore: Mr Speaker, I withdraw. I did call Mr Stanhope a liar and I withdraw it.

MR SPEAKER: Thank you.

MR STANHOPE: That is very edifying, Mr Moore. The facts are very plain. The facts speak for themselves. There is some confusion around them, of course. There is some confusion in the context of Mr Gower's subsequent press release.

Mr Moore: You just said there was no confusion. Make up your mind.

Mr Humphries: You said the facts speak for themselves.

MR SPEAKER: Order, please! No interjections.

MR STANHOPE: The facts are plain. The facts appear in *Hansard*. We heard with our own ears. I heard with my own ears. I heard Mr Gower's evidence. I was present in the room. Mr Gower was not under pressure. Mr Gower was not put under pressure. Mr Gower answered freely. Mr Rugendyke did not put Mr Gower under pressure when Mr Rugendyke was asking him those questions. Mr Corbell did not put him under pressure, nor did Mr Hird. He answered the questions freely. He said, "Yes, pressure was applied to me by a number of people, including the minister."

Some subsequent confusion has arisen as the result of a press release issued by both Mr Gower and by Ms Roma Hosking. The press release has raised a number of contradictions. Mr Gower appears to contradict his previous evidence, but it does not seem all that clear on the face of it. I am not

entirely sure what Mr Gower is saying in his press release. It is not entirely clear. It is not an unequivocal resiling from his evidence. He does not say in his press release, "Look, what I said to the committee was simply wrong; I was not telling the truth." He does not say that.

Ms Roma Hosking, in the opening remarks in her letter which the minister read, contradicts her president. Mr Gower, in his evidence to the committee on that same day, referred in his opening statement to the Gungahlin Community Council's position on the Gungahlin extension of the John Dedman Drive. He said, and I quote:

> The Gungahlin Community Council was prepared to support either proposed route.

He said that at the time the Gungahlin Community Council participated in the Maunsell discussions, a fact referred to by Ms Hosking in her letter in which she says that that was the clear position of the Gungahlin Community Council during the Maunsell discussions, they supported the eastern route. I just heard the Minister read that out. Well, Mr Gower does not agree with that. Mr Corbell said to Mr Gower:

> I understood until recently that the community council formally took the view that the council would not enter into the debate about which alignment, as long as reservation for a road was made. Could you explain to me why that has changed?

Mr Gower went on to say yes. He said this:

> Certainly. When debate was starting on Gungahlin Drive, as Gungahlin residents took it, back in the 1997 Maunsell discussions, we were quite amenable to either route.

Ms Hosking disagrees with that. So we have these conflicts. We have a range of conflicts about exactly who believes what and who said what. We have Ms Hosking coming out in her defence of the minister and contradicting her president and the evidence that he gave to the committee. So there is all this confusion around subsequent events.

The appropriate way to deal with the confusion is through the process that Mr Corbell has initiated. That is the appropriate process. There are very serious matters of principle at stake here that go to the integrity of this Assembly and its committee system. We have on the record evidence from a witness about certain facts as he sees them. We have his view on certain facts. We have his view on the fact that pressure was applied to him by the minister that if the Gungahlin Community Council did not support the eastern alignment the government simply would not build a road at all. That was the evidence from Mr Gower which is on the record.

We now believe, following subsequent events, that that might not be true. The minister stands up and confesses that it certainly is not true, but the difficulty for us is that it is on the record. It is on the *Hansard* record. The only way for this matter to be appropriately

resolved in order to protect the integrity of the committee system and to protect the integrity of this parliament is for it to be properly investigated by a privileges committee. There is simply no other way.

Why didn't you refer it back to the committee that previously asked the questions? What are Mr Corbell and Mr Rugendyke to do if they, as the government suggests, simply recall Mr Gower and say, "Look, Mr Gower, here is a list of 15 questions we asked you and these are your answers. Can we ask all those questions of you again?" What is the committee to do in those circumstances?

The appropriate process is for this parliament to accept responsibility for its integrity, its reputation, and its processes and for it to investigate the evidence of Mr Gower and the allegation by him that he gave his evidence in the form that he did as a result of representations made to him by the minister which he categorised, in his own words, as pressure. That is the circumstance. A witness appeared before one of the committees of this place and said, "I gave that evidence. I have this opinion. I have made this submission, and this is my opinion. It is an opinion I arrived at as a result of the pressure which the relevant minister put on me to the effect that if I did not agree with his position my community would not have a road built at all along the John Dedman alignment."

This is a most serious matter. There perhaps is no more serious matter that we could consider other than that—that a community group changed its submission to a committee of this place on the basis of the role which the minister played; that in fact the evidence that the committee received is so tainted that it is absolutely worthless.

What is the committee to do with that evidence? How is this parliament to deal with this serious matter? It will deal with it in the way which all other parliaments deal with this sort of issue, by referring it to a privileges committee. That is what every other parliament in Australia would do. That is what this parliament should do.

MR STEFANIAK (Minister for Education) (12.26): I want to contribute briefly to this debate which I have listened to with interest. I think the opposition have got it quite wrong. I would liken this matter perhaps to a matter in a court. To my understanding, the matter of the Gungahlin Drive extension route is still before the urban services committee.

Ms Tucker has read out certain statements which were made and certain questions and answers given at a committee hearing. Subsequent to that event, Mr Speaker, clarifications and other statements have been made. Statements have made for a public forum, statements have been made in public, and statements have been made in writing by two individuals involved, the President and the Secretary of the Gungahlin Community Council.

I have had a lot more experience in courts than anyone else in this place, with the possible exception of Mr Rugendyke who was a police officer for 18 years. I spent probably about the same period as a prosecutor and a defence counsel, on and off. From my experience, I have found that people do not tend to put in writing things that are going to be used in public. That would impinge on the author. People might query whether what they write is accurate or not, unless they actually believe what they write to

be the case. Both Mr Gower and the secretary, Roma Hosking, have made public two documents which they wrote after the events described by Ms Tucker and which she read out to this Assembly.

If this was a matter where the Director of Public Prosecutions, for example, was asked to bring charges against Mr Smyth as a result of those letters, I can tell you from nine years experience in that place that as a result of those letters I would be highly surprised if a DPP would want to proceed. Quite clearly, as a result of those letters, it simply would not occur. Also, in terms of establishing a privileges committee, something that this place has never done, that is a very serious matter. Quite clearly, as maybe both letters indicated, there is an awful lot of politics going on in relation to this matter and we should never lose sight of that.

There is a final matter I would mention, Mr Speaker. From what I have heard, I really think clarifications have been issued. Public statements have been made and letters have been made public and tabled in this place, and that really should be the end of the matter.

As the issue of the Gungahlin Drive extension route is still before the urban services committee, the most appropriate place for this ancillary matter, which is tied up with that general inquiry, is back before that particular committee. Again using the court of law analogy, this is not particularly rare. It is quite common to see matters go back to a court for further clarification if problems arise during a lengthy hearing. That is common practice is courts of law. Whilst I would not say this is exactly like a court of law, that would be what would happen there. So, quite clearly, if anything further is to happen as a result of this, it should go back to the urban services committee for further clarification.

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

> That so much of the standing and temporary orders be suspended as would prevent consideration of Notice No. 3, Assembly business, having precedence of notices and orders of the day in the ordinary routine of business after consideration of the Appropriation Bill 2000-2001 today until the Assembly concludes consideration of the matter this day.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Acton Peninsula—Demolition of Buildings

MR STANHOPE: My question is to the Attorney-General. On 4 March 2000, the *Canberra Times* reported that the family of Katie Bender had instituted legal action against the ACT government and Totalcare, among others, over Katie's death in the Canberra Hospital implosion. At a public hearing of the Select Committee on Government Contracting and Procurement Processes on 18 May, Mr Steve Palywoda, chief executive of Totalcare, said that that organisation would most vigorously defend a compensation claim by the Bender family arising out the tragic Canberra Hospital implosion. Can the Attorney tell the Assembly whether the government is, in fact, a party

to the Bender family action, whether counsel has been briefed and, if so, who? Will the government, like Totalcare, vigorously defend the action?

MR HUMPHRIES: Let me say first of all that, as far as Totalcare's involvement is concerned, Totalcare is a territory-owned corporation that has the right to deal with issues relating to its own liability in this matter as it sees fit. I do not believe it is appropriate to intervene in that and to tell it what it should and should not do in defending matters that might be brought against it in the court.

I understand that the ACT is a party to the proceedings, that is, they have joined Totalcare as a party in proceedings commenced on behalf of the Bender family, claiming damages against the territory. The ACT will be briefing counsel. I do not believe anyone has been briefed as yet to appear for the ACT, but if that is not so I will advise the Assembly later. Other details about the matter are best left to the courts to resolve. This matter, as Mr Stanhope is well aware, is sub judice. Under that convention those things remain a matter for the courts, rather than becoming a matter for the parliament. Beyond the information I have provided, that is where it should be let lie.

Mr Moore: I would take a point of order. I was waiting until the Attorney-General finished, but Mr Stanhope would be aware of standing order 117(e), which says:

> Questions shall not refer to:
> . . . (ii) proceedings in a committee not reported to the Assembly.

It was done as an aside, so I did not take the point of order to interrupt, but I do draw your attention to it.

Mr Stanhope: On that point of order, and on the Attorney's suggestion that this matter is sub judice and should not be raised or discussed in this parliament: the sub judice rule does not apply to prevent any member of this place from asking a question such as whether or not the ACT government is being sued. The sub judice rule does not apply in that way, as the Attorney knows.

MR HUMPHRIES: Could I make a further submission? The point of order was not about sub judice; it was about the committee proceedings.

MR STANHOPE: The point of order is quite simply spurious. My supplementary question to the Attorney is: have any other parties affected by the hospital implosion instituted action against the ACT government as a result of the implosion?

MR HUMPHRIES: Not that I am aware.

Supervised Injecting Place

MS TUCKER: My question is to the Treasurer. The recent decision to site the supervised injecting place at Queen Elizabeth II—

Mr Moore: The former QEII Hospital.

MS TUCKER: The former QEII, thank you. That decision has resulted in the Junction Youth Health Service centre needing to be resited. Ongoing concern has also been expressed by the Griffin Centre, through letters it sends to me—but to which I have not replied—and now a petition, that replacement facilities included in the Queensland Investment Corporation's proposed development of section 56 will be too small for the centre's needs. Meanwhile, the Department of Urban Services has just conducted a data collection and analysis of social services and facilities in and around Civic, taking into account the proposed increase in Civic's population. In light of the government's new-found road-to-Damascus-like enthusiasm for building social capital, will the Treasurer now seek to negotiate additional community facilities space in that development before proceeding with the deed of agreement, thereby investing real capital in real buildings for real social purposes?

MR HUMPHRIES: It is fairly obvious that the government's decision to pick up and deal with the question of building social capital in our budget this week has touched a very raw nerve for some members of this place. I would have thought that a person like Ms Tucker, who claims to believe that social capital is important, that we should build it up, would actually come forward and welcome the fact that the government—assuming that she does not dispute this—has put money aside to address the issue of social capital.

Ms Tucker: We do not believe you, Gary, sorry.

MR HUMPHRIES: Ms Tucker says that she does not believe that we have done that. I would be very grateful if, at some point in the debate we are going to have on the next sitting day, Ms Tucker would say which aspects of the budget we have described as social capital—particularly the building social capital program, which is funded to the tune of $3.5 million this coming year—does not represent a supporting of social capital in our community. Where exactly does it fall down in that respect?

I would like to hear Ms Tucker's answers on those questions. She is more a woman gazumped today than a woman who believes that we have it wrong. She is angry and resentful that we have done something on what she sees as her turf. That is a very sad thing to see.

Going back to this question of section 56: I am aware that there is certainly a desire on the part of the Griffin Centre to expand the amount of space it will have in the replacement centre, whatever it might be called, in the new section 56 development. I am quite well aware as well that the government's commitment to the Griffin Centre was that it would replace all the community space that was to be lost in the old, decrepit Griffin Centre with up-to-date space in the new facilities, with a great improvement in the quality of accommodation for the organisations concerned.

I am also well aware that the expanded space offered, if not clearly limited, could end up being endlessly expanded to satisfy an increasing desire to accommodate more and more organisations, and larger and larger spaces for those concerned. Having said that, I am quite willing to look at the issues that have been raised by the Griffin Centre and others, to see whether there is a capacity to accommodate more space for those organisations.

We have to bear in mind, though, that an expansion of that space comes at a cost, which is ultimately borne by the territory. This government continues to support community organisations to a very extensive degree, in fact to a greater degree overall than any previous government in this territory. We have, for example, recently increased grants to community organisations in the ACT by 10 per cent to cover their costs of GST, and further agreed not to ask them to return any embedded wholesale sales tax savings to the ACT, as every other state government in Australia is doing, to the best of my knowledge. That amounts to a gift in the outyears of something like $1.2 million to community organisations in the ACT. So we have nothing to apologise about in respect of our support for those organisations, and we will explore the issues they have raised in respect of section 56.

Budget Deficits

MR QUINLAN: My question is to the Treasurer. I refer to the oft-quoted figure of $344 million that has been claimed as a starting point for the Carnell government. Will the Treasurer confirm that this result is the bottom line for the 1995-96 financial year, after a full year of Carnell government, from a report brought down half-way through the first Carnell Assembly? Will the Treasurer also confirm that the Carnell government's budget for that year had a $144 million deficit? Did the Carnell government blow the budget that it set for its first full year of government by $200 million, according to the figures that you are peddling?

MR HUMPHRIES: Again, Mr Speaker, another raw nerve. There are a lot of exposed nerves around the place at the moment. All I can say is that I am glad we have extra money available for health, given all these raw nerves that are exposed all over the place at the moment in this place. I repeat the answer I gave the other day.

Mr Quinlan: Answer the question, Gary—1995-96?

MR HUMPHRIES: If Mr Quinlan is not interested in my answer, I am not going to waste my breath, Mr Speaker. Let me say this to him.

Mr Quinlan: Find an excuse to sit me down. Please sit me down Mr Speaker.

MR HUMPHRIES: I am sorry, I can still barely hear myself talk. First of all, the 1995-96 budget was delivered by the previous Treasurer, not by me, so I cannot answer detailed questions about what happened in that budget. I will provide this information, and you can explore your own budget papers from that year, Mr Quinlan, as well as I can.

MR SPEAKER: Order, please! Otherwise, I will have to ask the minister to repeat the answers.

Mr Quinlan: We would love to hear that again.

MR SPEAKER: Some of you presumably would like to be here for some votes later this day. Then I suggest that you keep silent.

MR HUMPHRIES: I will address the question by referring to the information available to all of us from the Auditor-General's report on the 1995-96 operating loss.

Mr Quinlan: Is that the only information available to you?

MR HUMPHRIES: I know you don't like this information, but I have to make a deal with those opposite. You can disregard what the Auditor-General has said about the operating loss if we can disregard what he might have to say about particular matters coming up in the future. We have a wild card to play against the Auditor-General for the future. Is it a deal?

Mr Quinlan: Answer the question.

MR HUMPHRIES: Is it a deal, Mr Quinlan? I cannot hear. It is a yes/no answer, Mr Quinlan.

MR SPEAKER: No deals, thank you.

MR HUMPHRIES: Mr Speaker, the Auditor-General said on the 1995-1996 territory operating loss:

> The emergence of the loss has not been a product of the immediate short term—

that is, the period of the Carnell government—

> since Self Government revenue from the Commonwealth has been progressively reduced while operating costs have generally increased; and
>
> If accrual accounting had been in place in the past years, the development of the losses would have been clearly evident.

What do you think he is saying about that, Mr Quinlan? Do you think he is saying, "Yes, the whole of the loss developed under the period of the Carnell government"? No. What he is saying is that the loss was built up over a number of years. Prior to the 1995-96 financial year, in the first six years of self-government, the Liberal Party was in office for about two—a year and a half under Mr Kaine and less than half a year when Mrs Carnell came to office. If Mr Quinlan is talking about progressive increases in operating losses prior to the 1995-1996 financial year, clearly he is talking about the Labor government and its contribution to the operating loss.

MR QUINLAN: I ask a supplementary question. Can the Treasurer tell the Assembly the approximate level of increase in expenditure in the general government sector during the Carnell government and whether it has been greater than or less than CPI?

MR HUMPHRIES: I will check the figure for Mr Quinlan's benefit, but my understanding is that the increase in expenditure in the general government sector has been about 5 per cent—

Mr Quinlan: More than inflation.

MR HUMPHRIES: It has been less than inflation.

Mr Quinlan: In the general government sector?

MR HUMPHRIES: Mr Speaker, why am I bothering to give them an answer?

MR SPEAKER: Mr Quinlan, you have a speech to make after this. You may not have the opportunity if you keep interjecting.

Mr Berry: Mr Speaker, will you require the same discipline of the Chief Minister?

MR SPEAKER: I will expect the same silence when Mr Quinlan, if he gets the chance, makes his speech.

MR HUMPHRIES: I will confirm it, but my understanding is that the growth in outlays in the general government sector has been of the order of 5 per cent and that that is below the rate of inflation during that period. Logically, it has to be below the rate of inflation. Otherwise, the government would not have been able to reduce the operating loss, would it? If we are increasing outlays by more than the rate of inflation, then clearly we have the same capacity to reduce the operating loss the territory has experienced. Of course, we have reduced it. It might be only a $256 million reduction according to Mr Quinlan, but there has been a significant reduction.

Canberra Raiders

MR OSBORNE: My question is to the minister for sport, Mr Stefaniak. Minister, could you tell me what stage negotiations are at between the CIT at Bruce and the Canberra Raiders in relation to the Raiders relocating their headquarters from Rugby League Park to the CIT? I understand that it is all very close. Would you confirm that? Could you tell me when the Raiders will be able to access the ground for training?

MR STEFANIAK: I thank Mr Osborne for the question. I would not be able to give the exact date off the top of my head, Mr Osborne, but it is very close. I understand the necessary legal procedures have been put in train. The CIT is very keen to get it up and running. It will be a great partnership and of great benefit to everyone concerned, especially when the Academy of Sport is also located at the Bruce campus and the CIT run sport and recreation courses from there as well. I do not think the ground is terribly well utilised, Mr Osborne. If the Raiders want to have access to it, I am happy to contact the director and see whether they can have access immediately. It is a good training ground and I do not think too many groups currently use it.

MR OSBORNE: I ask a supplementary question. Thank you for that, Minister. When you contact the director, could you ascertain from him whether the demountables currently being used by the Raiders at Rugby League Park could be used temporarily at the CIT prior to the new facility being built?

MR STEFANIAK: I am happy to see whether that can happen, Mr Osborne. I would hope there would not be too many problems with that.

ACT Prison

MR HARGREAVES: My question is to the Treasurer.

Ms Carnell: It will be me. Mr Speaker, I understand that the opposition were aware that Mr Humphries would have to leave the floor for a little while at this stage. I will take the question.

MR HARGREAVES: My question through you, Mr Speaker, is to the Clayton's Treasurer. Yesterday's budget papers included an allocation of $1.4 million for the tender process associated with the construction of the ACT's new prison. In fact, for the first outyear a further $908,000 was allocated. However, yet again there is no capital works allocation in any of the outyears for the project. Yet the minister has already foreshadowed that the construction of the facility will begin in the second half of the coming financial year. Will the Treasurer confirm that the absence of any capital works allocation indicates that the government has already made up its mind that the prison will be privately built and has totally ruled out a publicly funded construction project?

MS CARNELL: Mr Speaker, the government has always been quite clear that we favour a privately built prison. A final decision has not been taken on that, but that is our preferred position. Nobody would doubt that. Heavens, we have been saying that for years. Why would we put capital works into a budget when a decision has not been taken either way? That would simply be stupid budgeting, Mr Hargreaves. We do not put money into budgets when we have not made decisions, particularly when our preferred position is to go down the path of a privately constructed facility off budget.

MR HARGREAVES: My supplementary question is: why is the government so arrogantly determined to ignore the deliberations of the Assembly's justice committee on this subject and the concerns of the community and proceed with a blind ideological commitment to private construction and operation of the territory's new prison when the government knows only too well that New South Wales and Victoria are moving away from the private prison system? Why is there no provision in the outyears, given the minister's statement that the construction of the facility will begin in the second half of the coming financial year.

MR HUMPHRIES: Mr Speaker, the Chief Minister very adequately answered that question in the first part of her answer to Mr Hargreaves. If there is an arrogant ideological line here, it is coming from the party which says it must be a public prison and we should forget the evidence as to whether it is the better option or not. We have said we will listen to the evidence, and it will be public or private according to what the evidence best dictates, particularly the tender process. Mr Hargreaves says, "It must be public under any circumstances. Forget it. Nothing else is acceptable."

Mr Hargreaves: I did not say that. I have been Gary-ed.

MR HUMPHRIES: No, you have not said that, Mr Hargreaves—that is true—but your party has said it quite unambiguously, and I credit you with being a loyal servant of your party. You are not going to put forward a private prison when you know it is unacceptable to your mates up the back there. We will see what the evidence says before we make our decision.

Israel Australia Chamber of Commerce Trade Mission

MR KAINE: Mr Speaker, my question, through you, is to the Chief Minister. It arises from the quarterly ministerial travel report the Chief Minister tabled yesterday. Chief Minister, I noticed that for a 15-day period in March of this year your media adviser spent almost $13,000 on a taxpayer-paid trip to Israel and the United States on something called the Israel Australia Chamber of Commerce Trade Mission. Chief Minister, what special qualifications in Australia-Israeli relations, or perhaps even in trade, does your media representative possess that would justify this trip at a cost of nearly $13,000 of taxpayers' money? When do you propose to table a report on this visit from this officer that justifies the expenditure of that sort of public money on such a trip?

MS CARNELL: Mr Speaker, the ACT was invited to go on this particular mission.

Mr Kaine: Answer the question.

MS CARNELL: That is exactly what I am doing. I believed it was really important that somebody attend as a representative of the government on that trade mission. When we looked at what ministers had to do at that stage, it was not possible for any minister to be away for a 15-day period at that time. The people who were on that particular—

Mr Corbell: What about Mr Hird?

MS CARNELL: Mr Speaker, is it impossible for everyone to be quiet, particularly Mr Corbell? We believed it was important the people on that mission be representatives of government. There were some politicians; there were representatives of the private sector. Why did I send Mr Harris? I sent Mr Harris because I believed his interest in the area, his knowledge in the area and his capacity to report back to me and to other members of this Assembly were exemplary. That has been proven. Mr Harris has already reported to me and will report to this Assembly in the very near future. I am very surprised that anybody would doubt his capacity to handle a trip like this and to report back very appropriately.

MR KAINE: I do, frankly, Chief Minister. I ask a supplementary question. The same quarterly report shows that the minister for health spent 10 days with his spin doctor in Japan and the Minister for Urban Services spent 13 days in South Africa, presumably to see a football game, and the costs are not stated. Will the Chief Minister please inform us what the total cost of those two junkets was, including the amounts charged to the Qantas travel slush fund?

MS CARNELL: Mr Speaker, I feel really strongly about this, so I am going to answer this question in full. It is essential that we get overseas more often, not less often. It is absolutely essential for this Assembly and for members of this Assembly. Mr Wood has just been away. Mr Wood made the point the other day that it was very beneficial for him in broadening his knowledge in the area.

Similarly, we regularly send members of this place to CPA conferences overseas. When are any of those trips reported back to this place? When are any of the trips that those

opposite take reported in depth down to the last dollar? I will stand up here and defend every day not just the right of ministers to go offshore but the absolutely essential nature of it.

Mr Moore went to Japan for the Healthy Cities conference and went on to Nara to catch up on the sister city relationship. In June representatives from right around the world are coming to Canberra for a Healthy Cities conference here. That is a real benefit to the ACT. Mr Smyth reported yesterday or the day before on his trip. Two of the companies that went with him have already signed, or are in the process of negotiating, deals with South African companies.

If we do not do this, we will continue to be claustrophobic. We will continue to look inwardly rather than outward to the rest of the world, and that will not be in the best interests of the people of the ACT. I believe strongly that it is essential for members of this place—particularly the government, which is making decisions on behalf of the territory—to go offshore to broaden their perspectives, just as members of every other parliament in this country does. It is not just state, territory and federal parliaments doing this, but shire councils are doing it. Why? Because it is essential for our future.

Super 12 Rugby Final

MR HIRD: My question is to a broken-down front-row forward.

MR SPEAKER: I beg your pardon.

MR HIRD: I beg your pardon, Mr Speaker. He owes me a tie. My question is to the minister for sport, Mr Stefaniak. Minister, what does the Brumbies hosting the Super 12 final at Bruce Stadium mean for Canberra and the region? Have all the problems with the Australian Rugby Choir, which you are a member of, been rectified? Do not forget my tie.

MR STEFANIAK: Thanks, Mr Hird. This is one of the biggest single sporting events Canberra has hosted. It speaks volumes for the ability of the Brumbies, and it should be a wonderful final. Some 27,000-plus tickets have been sold, a ground record not only for the new stadium but also for the old stadium, where the previous record was 25,500. It is a great credit to the team and to Eddie Jones, the coach, who stepped into some big shoes when Rod Macqueen left the team. What a magnificent job Eddie has done.

This team fully deserves the support of everyone in this Assembly. They certainly deserve to win. It will be a very tough game. It will be about six degrees, with a lot of rain, so that will favour Canterbury. But all our hopes go with the Brumbies, and I think all the Assembly would join me in wishing them the best.

To answer the second part of your question, Mr Hird, I am delighted that the amazing events around the Australian Rugby Choir have been sorted out. The problem was sorted out pretty quickly. As a member of the choir, I was a bit reluctant to be involved at all, but I subsequently was and I am delighted that Mark Sinderberry indicated that he thought the Rugby Union had made a mistake. He asked me how he could contact the president of the choir, Mr Wal Cooper, and I arranged that. I am delighted that those two got together yesterday morning and very quickly sorted out the problem. That speaks

volumes for both Mr Sinderberry and Mr Cooper. The choir will be there, Mr Hird. I will be there, absolutely freezing and probably getting wet, by the sound of it. I certainly hope all members can get out to see the game. It should be a beauty. Let us hope the Brumbies win.

MATTER OF PUBLIC IMPORTANCE
Withdrawal

MR SPEAKER: I have received a letter from Mr Corbell withdrawing the matter of public importance he submitted for discussion earlier this day.

APPROPRIATION BILL 2000-2001

Debate resumed from 23 May 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR SPEAKER: I remind members that, pursuant to the authorisation for broadcasting given on 23 May 2000, the proceedings during the consideration of the Appropriation Bill 2000-2001 will be broadcast.

MR STANHOPE (Leader of the Opposition) (3.00): Mr Speaker, from time to time, incidents in political history take on a life of their own and enter the national psyche. They become part of the culture. A 10-second grab on the TV news enters the national lexicon. Everyone know where they were and what they were doing when Gough Whitlam spoke of Kerr's cur.

So it is that we recall Bill Hayden's assertion in 1983 that even a drover's dog could win the election. Perhaps Bob Hawke had a different view; but the point I make is that the 2000-01 ACT budget is a drover's dog budget. Even a drover's dog could have written it. Then again, some dogs are smarter than others; there are those who could have written it better. This is a budget written on the back of an envelope: a pay envelope that contained a bonus, a surplus not even the government knew it was falling into.

Mr Speaker, each budget delivered in this place has its own character, either by design or default. Last year's budget was, in the words of the then Treasurer, always awake to a tabloid headline, the full-monty budget, although this government's record on matters of disclosure, transparency and accountability falls well short of contemporary expectations and its own guidelines, so closely does it follow the Jeff Kennett model.

This year's budget is characterised by the political nature of the Treasurer's address, with repetitive attacks on the Labor Party. That is fine with me, of course; I am a politician. Perhaps, however, it is a sorry reflection on the nature of our profession that I barely noticed. Mr Humphries' address contained, I am told, no less than 14 references to the Labor Party—albeit, of course, contrasting somewhat unfavourably our record with theirs—and not one reference to the Liberal Party, not even the Canberra Liberals or the Carnell Liberals.

There are references to the government, of course, and to the Carnell government. There is even one to a small "l" liberal government. But there is nothing that might lead to any connection to the Liberal Party, John Howard or any other Liberal from up the hill. In fact, at the Press Club yesterday, Mrs Carnell was at some pains to bag her prime ministerial colleague—the Prime Minister who does not live here, the Prime Minister who slashed and burned the public service and forced the ACT into recession, the Prime Minister who gave CHOGM to the ACT, albeit on the day of the last ACT election, and then snatched it away.

Stripped back to its basics, this budget is little more than an attempt to reinvent Mrs Carnell. That is why she bagged the Prime Minister. That is why the Treasurer focused so much of his rhetoric on an attack on Labor. It is interesting to reflect on why the government is so interested in distancing itself from its Liberal big brothers and on selling its budget through and attack on Labor. The answer is pretty obvious: this government—the Chief Minister and former Treasurer in particular—is under siege and its only response under attack is to lash out.

But Mrs Carnell cannot walk away from her association with the Prime Minister and the rest of the Liberal Party, no matter how much she might want to publicly disown them. Mrs Carnell cannot walk away from Hall/Kinlyside, the hospital implosion, Bruce Stadium or even the Ultimate Rock Symphony. She cannot walk away from the fact that she has little, if any, influence over her federal mates. She cannot walk away from her ringing endorsement of the GST. Now, just as John Howard says that his government is ready to focus on social policy, Mrs Carnell has adopted the mantra of John Howard and we have social capital. Once again, she has fallen in behind John Howard.

But this government's social capital is a condescending shame. Social capital is a scatter-gun and underresourced approach to what should be a fundamental priority in government. Social capital is a program of photo opportunities for a besieged Chief Minister. Social capital is a shallow political stunt designed to re-establish the Chief Minister's credibility following her rejection by the people of Canberra for her arrogant refusal to accept any responsibility for the Bruce Stadium fiasco or the tragic hospital implosion.

Mr Moore: It is not.

Mr Smyth: We got 10 per cent more votes than you.

MR STANHOPE: Mr Speaker, in many ways this is a budget of lost opportunities.

Mr Kaine: Mr Speaker, on a point of order: is it not customary to hear the Leader of the Opposition in silence in his response to the budget?

MR SPEAKER: Yes.

Mr Kaine: Would you bring the government to order, please.

Mr Smyth: Speaking to the point of order, Mr Speaker: the budget response normally refers to the budget.

MR SPEAKER: There is no point of order, Mr Smyth, though you managed to fit that in.

Mr Humphries: Mr Stanhope is being accorded the same courtesies as were accorded to me when I presented my budget speech on Tuesday.

MR SPEAKER: Order! I am aware that there were some small interjections during Mr Humphries' speech and I am aware that there have been a few during Mr Stanhope's. I ask, however, that all interjections cease now.

Mr Moore: Mr Speaker, before Mr Stanhope starts, can we have some guidance from you on how we should behave. My understanding of a precedent in this place is that we would normally stay and listen to these speeches. When the Treasurer was giving his speech, Labor members all just wandered off. Can you give us some guidance as to the appropriate thing to do?

MR SPEAKER: I can give you no guidance at all. I simply say that you may do as you wish as long as it is within standing orders.

MR STANHOPE: As I was saying, in many ways this is a budget of lost opportunities. The budget papers show that the government received $83 million more than it expected to have in the current year: an increase in revenue of $45.5 million, an ACTEW dividend of $14.2 million that it was not expecting, and land sales worth $23 million. As recently as five months ago when the draft budget was released there was apparently no inkling of this windfall. So much for our expert financial managers. But do not look for the application of that bonus in the budget papers for 2000-01; it has gone. It has gone in a panic driven rush of blood that ignores the warning signs of a host of local indicators.

Despite the Chief Minister's penchant for leaping to announce the latest favourable indicator, there are signs emerging of a possible downturn in our recent recovery. ABS figures show, for instance, a fall in home lending in the ACT of 11.8 per cent in the March quarter compared with a national average fall of 8.1 per cent. Westpac's Melbourne Institute index of consumer sentiment dropped 2.3 per cent in May, its fourth consecutive fall, taking the total drop since November last year to 16 per cent. The consumer price index rose marginally more in the ACT in the March quarter than in the rest of the country. Food prices have risen more here in the last decade than in any other part of the country except South Australia. Transport costs rose more in the ACT in the same period than anywhere else in the country. Our rate of population growth is the second lowest in the nation, higher only than Tasmania's.

Those are local indicators. One thing territory treasurers cannot do is frame a budget in isolation of external decisions and environments. The territory economy is inexorably bound to the national economy and, through it, to influences from abroad. Interest rates in America and here are on an upward march. Fuel prices are unstable, to say the least. The Olympic boom that has characterised the New South Wales economy and had such an impact on ours is running to an end.

All that is without the goods and services tax—an inherently unfair tax; a tax with inflationary pressures and implications for interest rates, both at a time when the

Australian dollar is under enormous pressure; a tax that imposes severe compliance costs on small business; a tax that will increase costs and have an inevitable and unknown effect on consumption.

The GST will have an enormous impact on ordinary people: families, low-income earners, self-funded retirees, pensioners, and small business. We have seen in the past couple of days the looming impact in the price lists published by Professor Fels of the ACCC. Australians are already paying the GST in the supermarket, in the department store, on their home and car insurance and in so many other ways. They will only pay more when the tax is introduced. Even the Howard government—and, presumably, its willing band of supporters in this place—knows that the tax cuts will not compensate ordinary Australians for the impact of the GST, particularly after the impact of interest rate hikes. Yet the Chief Minister and the Treasurer are enthusiastic supporters of this inequitable tax.

Mr Speaker, in January the government launched a crude attempt to hijack the budget process. Its draft budget is better characterised as a misguided effort to tiptoe through the minefield of minority government. It sought to subvert the tenets of Westminster parliamentary democracy, established and refined over centuries, by having non-executive members sign up. It unashamedly wanted to abandon any formal scrutiny of how it proposed to disburse taxpayers' funds.

It is true that the government has adopted some of what the committees of this place put forward—at least Mr Rugendyke got his beat policemen. It is true that the budget papers reflect much of what was put before the Assembly in January, but there is much in them which was not disclosed or even available in January, which points to the mockery of this process. The government apparently was not aware of the increased funding it was to receive from a change in the way the Grants Commission calculates its relativities. Mrs Carnell claims that she lobbied fiercely, yet she was not aware of the windfall about to arrive.

The government did not take account of the pre-GST boom in housing and construction that led to another windfall. It did not take account of the rise in revenue that was to appear in the months ahead. The draft budget's bottom line for the current year was a $64 million deficit and for this budget year a $2 million surplus. We now have a $3 million deficit for this year and a $4.2 million surplus in 2000-01, but no indication was given to the Assembly committees reviewing the draft budget that there was a windfall available.

Was the government aware of the windfall? If it was and it did not inform the Assembly committees, then the draft budget process was, in addition to all its other flaws, simply fraudulent. What is the point in putting up a draft budget that is so far out of kilter with what is to follow? It allows the Chief Minister at the vital moment to flutter over Canberra dispensing stardust as she waves her magic social capital wand.

The government's arrogance was demonstrated by Mrs Carnell at the Press Club yesterday when she admitted that the whole process was at least in part designed to appease the crossbench. The Treasurer has questioned the need to continue with the estimates process. I said earlier that this government followed the Kennett model when it

came to disclosure and accountability. Perhaps I am being unfair to Mr Kennett: the former Victorian Premier could well have learned a lesson or two from his territory counterparts, it seems to me.

Labor believes that governments are elected to govern. Labor is committed to the notion of responsible government that is embodied in the Westminster system. We understand that the budget is the most important statement a government makes in the years between elections. In government, the Labor Party will accept the responsibility that that imposes to set priorities and to argue its case. We accept that the community, interest groups, peak bodies and other parliamentarians have a right to make submissions to the budget process and we will listen to those submissions, but the Labor Party will discontinue the draft budget process.

The government has forecast a $4.2 million surplus for 2000-01. It is appropriate to ask how it was achieved. Mrs Carnell and Mr Humphries would have us believe that it is down to their expert financial management, despite the fact that in five months the forecast has gone from $2 million to $4 million, but expected revenue has increased by over $70 million. The plain fact of it is that this surplus owes more to favourable external circumstances than it does to the financial management of the Liberal government.

The Chief Minister was at it again yesterday at the Press Club, praising the sheer hard work of a dedicated bunch of public servants who convinced the Grants Commission to give the territory more. She said that it was not an accident or luck that the commission changed the way it calculates its relativities; indeed, it was not. But it also was not through any argument put to the commission by the ACT.

The simple truth of the matter lies in the significant adverse impact the territory suffered in the Howard-induced recession between 1996 and 1998. As a result of that recession, the ACT's capacity to raise revenue fell relative to its capacity in 1993. Because it works on five-year averages, the commission used data from 1994-95 to 1998-99 when it calculated it relativities for 2000-0l, and that led largely to the increased funding.

If Mrs Carnell wants to take some of the credit for the increase, she can; but she has to accept that it was a Liberal-induced recession, not her lobbying, which led to the increase. If she was the prudent financial manager she claims to be, she would recognise the cyclical nature of that circumstance and accept that, as the effects of the recession wash out of the Grants Commission calculations, our relativity is like to fall. It would be prudent to spend the windfall wisely, although again the past record does not augur well.

If there is to be a surplus, it is also appropriate to ask who pays for it. I know the answer to that. This surplus is paid for by the pain and suffering of the 2,800 public servants who have lost their jobs under this government and all of those who were forced out of work and out of Canberra during the recession. It is paid for by the 150 people who will go next year. It is paid for by the 4,200 people on the elective surgery waiting lists and the thousands who have waited longer than clinically desirable. It is paid for by those hit by the cuts to CIT funding. It is paid for by those people who have not been able to get their teeth fixed because the government would not fund the dental health program.

It is paid for by the community organisations whose funds were cut because they disagreed with the government. It is paid for by the disabled and the handicapped who

cannot access the services they need to enjoy the quality of life they deserve. It is paid for by the small businesses whose payroll tax payments made up for the stamp duty waivers that the big end of town received as part of the business incentive program. It is paid for by the ratepayers who funded the Bruce Stadium redevelopment and the legal fees and court costs of the bungled hospital implosion. It is funded by Canberrans when they pay a fee to go to Floriade—a fee set by this caring, sharing government that is so committed to building social capital and encouraging a positive sense of belonging.

There is a peculiar line in this year's budget papers that has already caused the government a good deal of disquiet and led to a very entertaining display of fancy footwork. It is the unallocated funds provision in the Health and Community Care portfolio. The 2000-01 budget includes a provision for $7.657 million in expenditure on unallocated growth needs, growing to a total of $58 million over four years. The nature of the unallocated growth needs is not defined, although a number of programs are list for separate funding. It is not a new item. The growth needs provision was a feature that the minister made much of on the release of the draft budget. He has made more than much of it in the last week; he has truly made a meal of it.

A feature of this year's budget process has been the zealous work of the government's PR machine. The steady drip-feed of budget information has been a highlight of the city's media over the past couple of weeks. On Monday, for instance, we read in the *Canberra Times* that there would be an injection of $62 million in new health cash in the budget. Intriguingly, the *Times* reported that the bulk of the new funds was for use at the minister's discretion. "This money gives me the wherewithal to implement the changes I have as my goals," the minister told the *Times*. The *Times* repeated the suggestion when it reported the Treasurer's delivery of the budget. More than half the additional funds for health were "for use at the minister's discretion".

After that report, the minister and the Treasurer engaged in a touch of the old-fashioned mazurka. The Treasurer discovered a new scientific phenomenon: "What you say down the microphone and what comes out at the other end sometimes sounds very different," he told ABC radio. A little later, the minister had no discretion: everything had to be approved by cabinet and the Assembly, the Treasurer told us. The minister said nothing was unallocated; it would all be disclosed through purchase agreements.

The fact remains that these funds are referred to as unallocated. It is all very well to say that the money will be spent on an identified program—so-called growth needs—but in question time the Treasurer conceded there could be any number of emerging growth needs to which the money could be allocated. perhaps a flu epidemic or a bout of bronchitis. That is not the way to frame a budget. It simply smacks of an alarming lack of strategic planning.

This is the government that cannot find a way to spend $7.6 million. This is a government that cannot identify any health need deserving of these available funds. Yet elective surgery waiting lists in our public hospitals are in the order of 4,500, basically what they have been for the last five years, despite the government having access for more than two years to $16 million of bonus Commonwealth funding specifically directed at cutting the waiting lists: $16 million over two years. There has been no impact on the waiting lists; waiting times have blown out. More than 35 per cent of

patients on the waiting lists are waiting longer than clinically desirable and this government cannot find anything against which to allocate this $7.6 million.

We have that from a government which went to an election in 1995 promising 1,000 beds in the territory's public hospitals by the year 2000. Guess what? It is the year 2000 and the latest figures show that there are 671 beds in the public hospitals, down from 753 in the same period last year and still falling.

Mr Speaker, the government has made something of a song and dance about its initiatives in this year's budget to fund the territory's unfunded superannuation liability. Of course, this is not the first time in five years in office that the government has said that it would act on the liability. "Act", of course, is the key word. Labor appropriated $30 million to the superannuation fund in each of the years from 1992-93 to 1994-95—$30 million a year. In each of the next three years Mrs Carnell appropriated, on average, $13 million a year, almost two-thirds less.

Two years ago the government said that it would invest $40 million against the $80 million annual provision for superannuation, but that simply did not eventuate. Eighteen months ago, it said that it was imperative to sell ACTEW to deal with the problem, but that did not eventuate because the community and the Assembly rejected the rush to privatise.

In that five years, what do we have from the government in its contribution to superannuation? We have three years of an average contribution of $13 million. All the government has done about the superannuation liability problem is exacerbate it. It did repatriate capital from ACTEW to apply to the mounting liability, as Labor had suggested during the debate on the plan to sell the territory's largest public asset. It has now provided $5 million to put towards the liability. That, of course, is a wise move. It is just a little bit late to crow about it.

I note also that the government has decided to adopt two key recommendations of Mr Quinlan's superannuation committee—to establish an independent investment advisory board to control the superannuation account and to quarantine the money against use for other purposes. It has taken an inordinate amount of time for the government to act sensibly on such a critical issue.

Mr Speaker, the Assembly, and increasingly the community, is well aware that this government is more attuned to the advice of its spin doctors than to the needs of sound policy development. It is an attitude that fits well with the character of the Chief Minister, who always has an eye on the snappy headline. That character may go some way to explaining the government's disingenuous selling of its budget.

Mr Speaker, it is a good year to be Treasurer. There is more money than the government and its Treasury officials expected, even as recently as last January. There is a new policy unit to come up with initiatives in areas that the government has neglected in its years in office. But still the government cannot avoid resorting to the spin.

I spoke earlier of the spin on the Grants Commission's new calculations of relativities and the spin on the superannuation initiative. Of course, it does not stop there. The government points to its initiatives in policing and roads, for instance, to claim that it is

putting in as never before. But, as with almost every claim made through this budget, once you put the claim in perspective it does not stand up to scrutiny.

The government announced that it would spend more on initiatives to fight crime, that it would spend $65 million on police. But look at the record of the government. In 1996-97, according to the Grants Commission, the ACT government spent $53 million on policing, but the need was calculated at $58 million. By 1998-99 the gap had increased. The ACT was spending $55 million on policing, against the Grants Commission's assessed need of $65 million.

In the meantime, Canberra's incidence of crime has grown exponentially. Burglaries were up over 50 per cent in the last year. In just the last year burglaries rose by 50 per cent. In 1999, over 6,000 homes—one in 12 Canberra families—were burgled while the minister for justice fiddled. The number of motor vehicle thefts in the June quarter last year was 909, the highest rate of motor vehicle thefts on record.

The record is similar on roads expenditure. In 1996-97, the expenditure was $18 million, against the need calculated by the Grants Commission of $32 million. In 1998-99 expenditure had grown to $23 million, but the need was assessed at $36 million. In that latter year this government underspent on roads by 35 per cent, a staggering underspending, but nevertheless smaller than the massive 42 per cent underspending of two years earlier. In the meantime, this vital component of the territory's capital infrastructure continued to run down. We all have a pothole that we drive past every day on the way to work, marking its growth.

The government has made much of the ACT's record on jobs and unemployment. There is no denying the unemployment rate in the territory, 5.2 per cent in March. It is much better than the national figure and, in its own way, it is to be applauded. But it has always been thus. The point to make is that the gap has narrowed in the years that this government has held office. Population growth remains well below the national figure and the gap between our unemployment rate and the national level inexorably closes. Things are not necessarily so, Mr Speaker.

In a similar vein, the budget papers reveal that the government has set aside $1.4 million to fund tender processes associated with the ACT's new prison. There is no capital provision for the facility's construction, despite the Attorney-General's insistence that building will start in the year 2000-01. An assembly committee is still deliberating on whether the prison is best built and operated in private or public hands. It seems that the government has made up its mind, yet there is no mention of that decision in the budget papers. Things, again, are not necessarily so.

But the most disingenuous initiative in this budget is the link to social capital. The government has allocated $3.5 million to building the territory's social capital, the so-called fourth dimension of the economy, adding to the concepts of financial capital, environmental capital and human capital. It spreads $3.5 million over 20 projects, five years too late. It is an afterthought—well, not so much an afterthought as a bit of mid-term electioneering. Like the expenditure on roads and police, the government is getting to the issue after it has allowed the situation to deteriorate.

If social capital is one of the four cornerstones on which the economic wellbeing of the territory is built, it should surely be addressed in each year, not in the sixth year of a government that has one eye on the next election. No, what the 20 social capital initiatives do is give the Chief Minister 20 photo opportunities, 20 opportunities to express her excitement at Canberra's unlimited potential—a potential that Labor recognises and wants to see realised. Needs in these areas are important, too important for the fairy floss of this government's initiative, an initiative more a creation of a public relations machine.

The Chief Minister often speaks of the Carnell government's—never, of course, the Liberals'—vision for Canberra. She spoke of it again yesterday, and of how budgets were important because they formed the basis of a government's vision or plan. I said earlier that Labor regarded the budget as the most important document any government produced between elections. Budgets should be constructed around a government's view of how the jurisdiction over which they preside should grow and prosper. They should indicate how scarce resources are to be prioritised to meet the complexity of needs of a diverse and thriving community.

The same is sometimes said of responses to budgets. That said, this is not an election year and I am not here to detail our plans so far out from an election. But Labor's priorities are clear and they will form the framework of what we take to the electorate in October next year, the detail of which the ALP is currently fully engaged in developing.

Mr Speaker, Labor's priorities will be to ensure sound financial management, social responsibility so that the weakest and most vulnerable are protected and opportunities are provided for this vibrant community to realise its full potential, that the burdens on education and health are lifted, and strong and consistent regional development.

Labor believes that there is a need to establish long-term balanced budgets to provide the stability that will promote economic investment and allow the opportunity for government to provide the support that is necessary for community organisations. It is not good enough to grab an unexpected windfall and scatter it away on half-baked, afterthought social policy designed more for self-promotion than benefit to the community.

A cornerstone of Labor's financial management would be a greater immediate focus on the superannuation liability. The government has been far too slow to address the problem in any meaningful manner. Its current breast beating on the subject is belied by its performance.

Labor believes that there is a need to revise the general rating system to resolve the competing interests of long-term residents with those of redevelopment. We would look at options for an extended ownership rebate and for rates deferment.

Under Labor, business incentive programs would focus more than they currently do on local firms employing local people. Our business development strategy would focus on regional development and the promotion of the knowledge-based economy. But we would not neglect other industries. It is essential for solid economic growth to broaden the economic base of the territory.

Mr Speaker, our society can be judged on how we treat the less well off, the less able and the less fortunate. At present, we can be found wanting in certain key areas. Labor's first priority is to improve our care of people in need, and in working to meet that priority we would focus on a range of areas.

Disabled people and their needs are still not accorded the support and recognition they require. The government must provide more resources. We would allocate more to individual support packages which give on-the-ground, real assistance to disabled people.

In relation to public housing, a home provides more than a roof over your head. Labor believes that housing is the key to social wellbeing. Too often, government housing tenants find themselves in financial and personal difficulties. Very often, ACT Housing is the first to see evidence of these difficulties, but has the policy that other agencies should attend to them. Labor will provide more resources to ACT Housing for assistance and guidance to people in difficulty. The government's attitude is evidenced by the experience of the public housing tenants at Red Hill and Mawson summonsed yesterday to meetings to be told of redevelopment and sale plans for their homes, less than 24 hours after they were announced in this budget.

We must care for the carers. The government is saved millions of dollars by the selfless work of thousands of carers who themselves may no longer be young and fit. They need care just to continue their demanding and voluntary job and Labor will provide more financial assistance for them.

Mental health services should meet the needs of each individual and should be accessible, flexible and responsive. Labor will provide additional support to consumers, including the examination of the viability of the "clubhouse" proposal.

In relation to public transport, Labor will review the zonal bus system to introduce fairness and remove inequities in the cost of bus travel, especially for school students. Labor will review the government's misguided decision not to allow concessions to be used against bus fares in peak times.

Labor will provide a focus on key issues for young people—youth housing programs, health and better transport.

Our public hospital system is an excellent one, but it has to be appropriately resourced. We have been cutting back at the Canberra Hospital for a decade, but we still have the same results—budget overruns, bed closures, fewer nurses and other staff, expanding waiting lists and continuing reports of an inefficient hospital 30 to 40 per cent over national benchmarks. Labor will undertake a thorough assessment of the assumptions underlying the hospital's budget and its benchmarking. We must determine whether the hospital is being set budgeting hurdles that it cannot clear. We must resolve this cycle of continuing cuts, declines in service, and constant demands for expenditure reduction.

The difference between Labor and Liberal is perhaps more evident in each party's approach to education than in many other areas. Labor supports a high-quality, accessible public education system where the needs of all children are addressed. Labor, in contrast to the Liberals, also supports a reasonable employment policy for its own workforce.

Labor will always focus its efforts on ensuring that the public education system receives a priority and remains strong and viable. We will work cooperatively with the community, its representatives and the unions to achieve our education aims.

In the 1950s and 1960s, the normal regional development strategy framework covered rural areas or urban centres in depressed regions. More recently, the focus of regional development has shifted to urban industrial centres with significant structural unemployment. In the former, the goal was pure development, while in the latter the goal is one of redevelopment. The ACT fits neither model. On the one hand, the ACT has a reasonably well-developed, though ageing, infrastructure and, as shown in the last three years, its workforce is both flexible and mobile. A regional development strategy for the ACT would thus differ from usual strategies in that it would not be targeted at either pure development or redevelopment.

Essentially, a coherent regional economic development strategy for the ACT and region has to have a focus on improving regional employment opportunities by building on competitive strengths and creating a more favourable climate for small to medium enterprises, encouraging the creation of new business, and consolidating and improving local infrastructure.

There is a point of agreement between Labor and the government over the need to develop, around the airport, a regional transport hub. The arrival of Impulse Airlines, and the injection into the territory's economic base should the venture prove successful, is a great start. But there is more to be done and not all of it can come from the private sector. Much of the infrastructure has to be provided by government, and the drive to get it done and the strategic planning are certainly the province of government.

Labor will continue its process of comprehensive policy development over the months leading to next year's election.

Mr Speaker, I said earlier that this is a budget written on the back of an envelope. It might be more apt to say that it is written on the back of 150 envelopes—the redundancy payments for the next round of public servants to lose their jobs. The Treasurer and the Minister for Urban Services, where most of the redundancies are sourced, can sidestep all they want. It is written in their budget papers—another 150 redundancies.

Overridingly, this is a budget of lost opportunities. That fact is particularly marked in a year when it is easy to be Treasurer—a year when the budget could have been written by a drover's dog. It is a budget of lost opportunities because of what is not in it. There is no plan for the future, there is no vision, and there are no ideas. It is a budget that, instead, records a wasted windfall and a lack of strategic planning so pronounced that it provides unallocated funds for use at a single minister's discretion.

It is a budget whose centrepiece is an underfunded, plagiarised social theory that tries to reinvent the Chief Minister—a centrepiece designed more to revive a faded political career than to address the areas of need so neglected for so long by this declining government.

MR OSBORNE (3.39): Mr Speaker, I will keep my comments fairly brief at this time, as there will be other opportunities to speak on the budget in more detail. At the outset, I would like to say that, in the main, this is a very good budget. I can recall the trepidation with which I read my first budget as a member in 1995 and my absolute astonishment at the shocking state of the territory's finances. It was painfully obvious to all and sundry that we had not been living within our means as a community for a long time.

There was some disagreement yesterday between Mr Humphries and Mr Quinlan over the size of the operating loss that the government had inherited from Labor, but I think that it was generally agreed to be around $345 million to $350 million. With the introduction of full accrual accounting the following year, a more gruesome picture came into focus over the extraordinary size of our unfunded superannuation liability. I recall that most members were becoming aware of the true size of that problem only for the first time. Despite protests to the contrary, I still believe that the legacy of debt that was created in the first four years of self-government—and it pains me to say that it was done substantially by successive Labor governments—is not something to be proud of.

The transformation from that point, six budgets ago, to today has been quite remarkable. Members will be aware of the number of times that I have spoken in previous budget debates about the importance of the territory living within its means. In fact, I have legislation on the table that supports the principle. There have been times over the past five years that I thought I would never see a budget being tabled that contained a surplus, but we have one at last. I believe that the government is to be applauded for it.

Whether the turnaround has come on the back of good economic policy, a general upturn in the economy of the country or just plain good luck, getting the bottom line back into the black is worthy of praise and it would be churlish of me to do otherwise. Of course, I also acknowledge that a factor in our economic turnaround is the substantial increase in funding from the Commonwealth Grants Commission.

Before I move on to comment on a few specific matters, I cannot let pass the opportunity to note the superannuation liability. Since 1996, I have been less complimentary towards those who have allowed the unfunded superannuation liability to become an absolute monster. The government made it very clear during the Assembly debates over the sale of ACTEW that funding the liability was fully dependent on the sale. As an Assembly, we were repeatedly told that there was just no option other than the sale; yet the government seems to have come up with a workable plan that will have our superannuation scheme fully self-funding within an eight-year period. Whilst that is good news, I am not quite sure now how I ought to regard that chapter in our history.

There are a number of initiatives in this budget that deserve praise, especially those that support families. The Justice and Community Safety Committee, which I chair, made considerable mention of family support programs in its report last month on the draft budget. During its inquiry into the draft budget, the committee was provided with the results of a study by the Australian Institute of Criminology which showed that, for every dollar spent on family therapy programs, society could gain up to $11 in benefits. I believe that it makes a lot of sense, then, for us as a community to invest money in families that are struggling.

As the government has recognised, that can be done in various ways—from assistance with parenting skills and providing counselling to other practical forms of help, such as providing leisure activities for kids who have too much time on their hands or simply making sure that they have something to eat before they start school for the day. Other approaches that have worked well overseas include programs for pre-schoolers, assistance at home for mothers with young children and initiatives in schools to ensure that students at risk are actually learning.

With more and more research now being done, it is becoming much easier to identify families with problems before things get too far out of hand. This approach makes it much easier to break destructive cycles of behaviour and give those families a chance to get back on an even keel. Whether these programs are called fancy names, such as social capital, matters little to me; they just make a lot of good sense. I am also pleased to see the government spending additional money on education, apprenticeships and opportunities for young people.

The only other comment I wish to make on the budget at this time is in regard to the health line—surprise, surprise! As usual, there are a number of programs in this budget that I am not overly happy with; nonetheless, I support the majority of this budget. I do, however, have two major difficulties with the health line that have caused me to seriously consider my vote. The first is a $64 million slush fund and the second is an allocation of nearly $2 million for the heroin shooting gallery. I will speak on each matter separately, Mr Speaker.

The status of the slush fund is still uncertain. There have been conflicting reports by the health minister, as repeatedly stated in the media, on the one hand and by the Chief Minister and the Treasurer on the other. The health minister has made it abundantly clear that the majority of the fund is not yet allocated and that the fund is to be spent at his discretion and according to his agenda.

Yesterday, both the Chief Minister and the Treasurer said that the entire fund is already specifically allocated. Of course, both statements cannot be true. Due to this apparent confusion, I am taking the more conservative position and will only consider the fund to be a slush fund, which, of course, I could not support. I will only be convinced that it is no longer a slush fund if a specific list of activities or programs on which the money will be spent over the next financial year is tabled in the Assembly before the budget is voted on. I call on the minister to do that.

Mr Speaker, the allocation of funds in this budget for the shooting gallery causes me great concern. I appreciate just how democracy works. We have had the debate and I lost. I did not support the shooting gallery then and I do not support it now. As there has been an allocation for the shooting gallery in this budget, I am faced with the dilemma of giving support to a program that I find reprehensible in every respect, morally, ethically and legally. Legislation to establish the shooting gallery was passed into law by two members of the government, Mr Moore, Ms Tucker and the Labor Party. Given the great belief that Labor and Ms Tucker have in the shooting gallery, it is only right and proper for them to support the funding of it.

Mr Speaker, I would like to finish briefly on the increase in money for policing. The extra money is welcome and much needed. I have never attempted in my time in this

place to hide the fact that I am a strong advocate of the police and the AFP. Obviously, it is pleasing to see that the government does listen and apparently is a strong supporter of the police. I welcome the money in there for that.

Finally, regardless of whether it was due to good luck or good management, there has been an amazing turnaround, as I said earlier. I have been critical of this government at different stages; but when it comes to the bottom line, I think that we should pat them on the back for the job that they have done. The Chief Minister, Mrs Carnell, should be proud of the job that she has done in rescuing the territory from the mess of the early years, and I sincerely mean that, Mr Speaker.

It would be remiss of me not to congratulate Mick Lilley as well. He has had his ups and downs, especially recently, but I always found him to be a good bloke. I think that he has done a terrific job with the budget and I am pleased that he is able to leave his job with it completed.

MR RUGENDYKE (3.47): What a headline: "It's all or nothing, Carnell warns MLAs". The Chief Minister said that it was an all or nothing matter and her government would not allow the budget to be picked over line by line by the crossbenchers. A line or two need to be picked over, but I will come to that later. I wonder whether the Treasurer is thrilled that Mrs Carnell has thrown out such a challenge on his first budget? I wonder whether he is thrilled that the Chief Minister is playing fast and loose with his budget?

Mr Speaker, the government is correct when it says that a majority of members supported the shooting gallery legislation. I did not. I expect that the members who wanted a shooting gallery will pass this aspect of the budget. I will not support this aspect of the budget and the Assembly should know full well that, if the Labor Party gains government, I would not support a shooting gallery in its budget, either.

I must remind members that the Liberal Party gave its members a conscience vote when the shooting gallery issue was debated. My conscience tells me that I cannot support this facility, so I cannot endorse financing it. It is not just a matter of giving the government its budget. This line in the budget is about a fundamental principle. If you want to approve financing for it, you will have to go and talk to the members who fundamentally support it.

I am not going to allow the shooting gallery funding to sit on my conscience. I cannot desert my conscience for the sake of your budget. The shooting gallery is such a sensitive issue that the Liberal Party allowed a conscience vote. Michael Moore and Kate Carnell joined Jon Stanhope and the Labor Party to make it happen. If this is an all or nothing budget, you are going to need the Labor Party to get it passed.

The other aspect of the budget I have difficulty with is the slush fund for the health minister, Mr Moore. The question I need to ask myself is: If Mr Moore was still a true Independent on the crossbench, would he accept this method of funding from the government? I think not. If Mr Moore was a true democrat, I am sure that he would have no part of this madness. I ask the government to go away and allocate and itemise this money.

Mr Speaker, there are some good aspects of this budget, but there are also some principles to stand by.

MS TUCKER (3.50): I will not speak at length today, either, as I have not had time to go through all the detail of the budget, but I will make some general comments. We have had time to look in some detail at the environment budget.

This government is telling us that it has succeeded in good governance because it has produced a surplus. Of course, we do need to have responsible management of the finances of the territory, but the statement that I have been making in this Assembly for the Greens since I was elected is that we want to make sure that the focus on the financial bottom line is balanced by a focus on the social and environmental issues related to our society. In other words, we cannot see the society and the environment as externalities in the framework in which we work.

Of interest to me is that, as other members have mentioned, in this budget we are seeing a very strong focus on the need to look at the social aspect through the use of the term "social capital". I think that this commenced in the last budget. I seem to recall Mrs Carnell saying, "Now that the books are in order, we can look at the social issues." The fundamental problem with that is that it was in a way an acknowledgment that they had been neglected for the previous four years and liabilities have been accruing in those areas.

We do work under an accrual method of accounting which takes into account liabilities related to financial matters, but we also accrue other sorts of liabilities, such as social and environmental liabilities. They must be equally important and powerful in the analysis that we bring to how well any government is doing.

As I said, this government is now claiming that it has the books in order, so it can address the social issues. We can see many times in the budget speech and papers the use of the words "social capital", as if somehow the frequency of use of those words will convince us that this government actually understands the concept of social capital. I understand that it is very post-modern to pick up accepted concepts and rework them, and I think that we have a bit of a post-modern government here. But if you look closely at the basics of this government's budget, you will see that they do not fit in with what some of us understand the concept of social capital to embrace.

There are some very obvious indicators in their budget approach which would suggest that they have reworked the idea of what social capital means. For example, if you look at the key result areas, you will see reference to the introduction of a more contestable public sector. Eva Cox, for example, has done a number of Boyer Lectures on civil society. I will quote one of her statements:

> I have serious concerns about the current dominant fashion of macho competition driven "progress" and the intensity with which these economic frameworks are promoted. These frameworks are particularly dangerous because alternative views are denied, ridiculed or ignored. The dominant ideas of competition and deregulation of markets and the attacks on the redistributive roles of government are dysfunctional, part of an oversimplified dogma which can destroy civil society in pursuit of the cashed up individual.

That is what many of us understood the basic concept of social capital to be about. Clearly, we are seeing it being reworked and redefined by this government. That is fine—it is post-modern—but we would like to know exactly what is their understanding of the concept of social capital. I did talk briefly with Mr Moore about it and he said that he could see no contradiction between competition and trust. That is really challenging some of the basic ideas of social capital as we know them. I look forward to more discussion about this government's view of actually what it is that it is doing.

We still do not have social outcomes in the key result areas. I remember that being raised in a report that the education committee produced and Mr Hird dissented, saying that it was totally inappropriate even to mention social outcomes in a budget document. We will have to see how we go with that idea in terms of how it fits into social capital. Equity, of course, is still not mentioned and that is a very fundamental part of trust in any society.

Mr Humphries said in question time today that he thought I was angry and he felt a bit sad because the government had gazumped me. Mr Humphries, you do not need to be sad about that. How I wish I had been gazumped. I would be absolutely delighted if I had been gazumped on this matter, let me assure you.

The question of social need generally still has not been analysed with any commitment by the government and I do not believe that its expenditure decisions are really related to any thorough analysis of the social needs. That is something we have said every year and I am afraid that we are still saying it.

I will speak in some detail on the environment. The government's interpretation of social capital has ignored the fact that the maintenance of a healthy environment is an integral part of building social capital. Thus, it concerns me that the government has continued to give a low priority to environmental management in this budget.

It should be noted that less than one per cent of the budget expenditure goes into managing some 53 per cent of the ACT—that is, the area of Namadgi National Park and the other nature reserves—and less than 2 per cent of the budget is spent on managing Canberra's urban parks and open space. The amount is very small relative to the other expenditure in the budget and I know that the funds of Environment ACT are spread very thinly over a number of important activities.

I note that this year the budget of Environment ACT has been increased by 4 per cent. Obviously, I support the few environmental initiatives there are, such as the money to implement the greenhouse strategy. However, this expenditure is hardly catching up with the real cuts in funding that have occurred since the election of this government. Funding increases to Environment ACT in the past have not kept up with inflation.

I note that the conservation council has calculated that environment funding has actually been cut by 14 per cent in real terms since the government's re-election in 1998. I understand that this figure includes not just cuts to the overall budget of Environment ACT but also money that has been withdrawn from its budget for departmental expenditure, such as IT modernisation. The money that is available for on-the-ground environmental management has been diminishing in real terms under this government.

Within the government's social capital initiative there is no extra support for all the volunteer effort that goes into protecting the local environment by landcare, parkcare and other conservation groups which often are doing work that government employees used to do.

This government makes much of its environmental initiatives, such as its setting of a greenhouse gas reduction target and its completion of action plans for endangered species, but it is quite clear that the government has no real understanding of or commitment to ecologically sustainable development in the sense of integrating environmental considerations into its decision-making. Its environmental efforts so far have been tokenistic relative to the government's wholesale commitment to private enterprise and economic rationalism.

The classic example of that is the government's announcement that it will spend $130 million over five years on major road construction. The government calls it a traffic jam plan, which is really what it is: it is just a plan to create more traffic jams. The experience in other cities is that new roads or road expansions just end up becoming congested and the pressure builds up for even more roads in a never-ending cycle. The government shows no concern that this plan will just increase the car dependency of Canberra residents and decrease the chance of ACTION ever being able to match the relative attractiveness of private motor vehicle travel.

The government shows no understanding of what is required to create an environmentally sustainable transport system in Canberra. The government has ignored the fact that there were two major elements of Canberra's transport system when the plan for Canberra was set in the 1960s and 1970s. One was the network of arterial roads and the other was the intertown public transport corridors directly linking the town centres so that bus travel could be given priority over cars on these routes. The government has proceeded with the roads, but the intertown public transport corridors have languished on the plans. A few sections of bus-only lanes have been built, but there has been no overall strategy to complete the corridors. If the government is really serious about addressing the transport needs of Gungahlin residents, it should have included in this budget the construction of bus priority lanes from Civic to Gungahlin and abolished ACTION's discriminatory zonal fare structure that puts Gungahlin in a different zone from central Canberra.

In the area of promoting economic growth in the ACT, we are seeing the government push for private sector development at whatever the cost, without any real consideration of the ecological sustainability of such development or even its contribution to social capital. The ACT budget has shown up the huge—$8 million—gift that the government has given to Impulse Airlines, dwarfing just about all the other initiatives in the budget, even the $675,000 allocated to other businesses under the business incentive scheme. When you compare that with the absolute refusal of Mr Humphries even to acknowledge the hardships being experienced by the community legal services, you do feel very concerned about the government's claims of a commitment to social justice or social capital, as the government calls it. I just hope that it ends up being a good investment.

Business incentive scheme funds have already been allocated to Telstra, Ansett and Raytheon—very large companies that hardly need the money. Raytheon is a huge multinational company. If we are going to be promoting business, we should be helping

to expand local businesses with strong environmental and ethical credentials, rather than paying out pocket money to large companies that would still be doing business in Canberra anyway.

MR QUINLAN (4.01): The first thing I would like to do is respond to Mr Osborne's congratulations to the government—and if that is what he believes, that is what he should say. However, I should remind him that the ACT under self-government did not start out in the black and somehow fall into the red. It started out with tremendous administrative disadvantages. The comments that Mr Osborne made and the credit that the government would like to take do the genuine people who worked in the early years through much tighter times than we enjoy today a grave disservice.

As far as this budget and its presentation are concerned, I really do not understand the psyche of the Carnell style, perpetuated or aped by Mr Humphries. You find yourself in a good position but you cannot help yourself—you have still got to use crook figures to claim that it is even better. You would have been better off and you might have maintained a degree of integrity if you had used the right figures.

I want to refer to a topic that I have raised a number of times in the last week or two and I intend to continue to pursue—

Ms Carnell: Nobody believes you.

MR QUINLAN: Nobody believes me? Is the point that I am wrong or that nobody believes me? Ms Carnell said that there was a $344 million loss in Labor's last year of government. This can be found at page 20—the back page—of Budget Paper No 1. Is that the claim? Was this inherited from Labor? I would love Ms Carnell to go on record and be more specific about her claim. In fact, this is a result in a year that was within the complete control of the Carnell government.

Ms Carnell: It was the first accrual budget.

MR QUINLAN: It was not. It was a recast result. Your budget for the year was $140 million and I presume your budget was based on the election promises that got you elected.

Within this $344 million there is a $91 million abnormal item. But you happily add that to the operating result because it makes the number bigger. It is a crook figure: it is crook to use the year; it is crook to include the abnormal item. As I said the other day, as a result of that this is a defining moment for you guys. This is who you are. You are the people that would use that sort of misleading information.

In relation to the budget itself, over the period since the year you were elected we have seen a very substantial increase in federal funding. If we start with this huge amount of $344 million—if we even accepted the $344 million was ours—you can whip off about $150 million straight away for additional government funding. You could whip off a similar amount for the additional taxes that are being received now rather than then.

Mr Humphries: They are the decisions we made to get there.

MR QUINLAN: Yes, they are. They are the decisions you made. You put up taxes. There is a false claim in a press release put out today that expenditure has grown by only five per cent in your time. Of course, you did not put into that press release the fact that you had taken the whole of government, consolidated government, figures. The general government sector—the bit that you are in charge of—has gone up by far more than the CPI. That figure is diluted by reduced expenditure by government business enterprises.

There has been a spurious use of figures. It is misleading and it has got nothing to do with your job. When Mr Humphries stands up to speak in this debate, will he concede that general government sector expenditure has gone up by more than the CPI since the Carnell government was elected in 1995? I reckon it has gone up by about 18 per cent; I reckon the CPI is about 11 per cent.

Ms Carnell: CPI is not 11, so you are wrong on that. I know that.

MR QUINLAN: What is it?

Ms Carnell: In real terms it is about 5.7 per cent—

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! Mr Quinlan and the government side of the house: come to order please. Mr Quinlan, address your remarks to the chair, sir.

MR QUINLAN: I am sorry. I have been mercilessly baited by the other side of the house, Mr Temporary Deputy Speaker. Mercilessly!

The Carnell government has made a couple of other claims. Because you cannot help yourselves, from time to time we get regular questions—otherwise known as dorothy dixers—asked by the government backbencher, the very busy government backbencher, on the performance of government and we are told how well we are doing in respect of employment. But, our unemployment figure has always been better than the Australia unemployment figure. Somehow it is a miracle if it happens during the period of the Carnell government. I do not whether it was a miracle when it happened before—

Mr Humphries: Growth is not always better. Growth is not always better than the national average; growth is not always better.

MR QUINLAN: I am talking about unemployment. You can talk about growth when you speak in this debate. This person comes into this place and talks about unemployment rates. He tells us how much better our unemployment rate is than the rest of Australia. In fact, in comparison with the rest of Australia, we have declined a little over the last few years; not improved, declined. We are still better than the rest of Australia but the relativity has declined somewhat.

Again, I do not know why you do it? You have got the best circumstances known to mankind in which to put together a budget, but you still cannot help yourself—you have got to go over the top with crook figures to try to make it look so much better than it is. I suppose it is just—

Mr Humphries: You would never do that, Ted, would you?

MR QUINLAN: I do not think so. I have not been in government and I have not been in this place that long but I do think my integrity would preclude me from going as far as writing some of the misleading information that has been associated with this budget. That I promise you. I would never lower myself that far, Mr Humphries, and thank you for asking.

We also hear that under the Carnell government this miracle town has turned into a private sector town. That phenomenon really boils down to the fact that the federal government has outsourced and changed the method of receiving services. The Australian national accounts issued by the Australian Bureau of Statistics show that constantly over quite a number of years about 60 per cent of ACT economic activity has been dependent on the public purse. We might be changing at the edges—I certainly hope we change more—but it is totally misleading to make the outrageous claim that somehow this is a private sector town, and that this is all due to the activity of the Carnell government.

We see that there are some good things in this budget. We think the additional policing is good. We think the easing of payroll tax is good. We think funds devoted to trying to encourage development beyond research in the territory is a good thing. I am very flattered that, in making this decision, Ms Carnell is backing what I said a year or so ago.

But overall I have to join with Mr Stanhope in saying that the spin that has been put on this budget—this building social capital spin—is the bid to re-invent Ms Carnell after two very poor years in terms of her image. The revelation of the real results of—

Members interjecting—

MR QUINLAN: I would rather talk to an empty bench than—

MR TEMPORARY DEPUTY SPEAKER: No, you are talking to the chair, Mr Quinlan.

MR QUINLAN: I would rather talk in front of an empty bench than in front of a contrived conversation.

MR TEMPORARY DEPUTY SPEAKER: The member is not intruding on standing order 41. You are talking to the chair. Mr Quinlan, you have the call, sir.

MR QUINLAN: Thank you, Mr Temporary Deputy Speaker. In case I had grabbed anyone's attention, I will return to what I was saying. I have to say the little book of pap that talks about building social capital is a fairly pathetic effort to try to re-invent the image of this government. When I look at the little book of pap I get the impression that it is designed for mass circulation. As I said yesterday morning, if this is the case the government ought to put a little chain around each one because this is about the same class of propaganda as that which the Howard government is putting out in relation to its so-called tax reform. Having made those remarks yesterday morning and walking out of the door of the Convention Centre, I was a little chuffed to be offered one of these little books of pap, as everybody else was. Yes, it just had that look.

I could talk about superannuation but Mr Stanhope has covered that. I would like to close by saying: I do not believe, and a realistic look at the facts show, that there is no economic miracle here. There is an increase in Commonwealth funding of very substantial proportions. There is an increase in taxation all round and some of that taxation increase is a function of external activity. We are reaping the rewards. Some of those taxes, as Mr Wood has informed me, were ALP taxes. Greater rewards are being reaped because of the higher economic activity in Australia which has flowed through to the ACT. I hope that the worrying signs that we see in relation to the Australian economy do not flow through to a downturn in the economy, because I am sure that would pull us down as well.

I have to put on the record that I note the Treasurer made the claim that he had achieved this small surplus without borrowing or without asset sales. I know he is new in the job but neither borrowing nor asset sales would impact the bottom line of an accrual accounting operating statement.

Ms Carnell: But they would impact on cash, and we didn't need the cash.

MR QUINLAN: We are talking about the surplus. We are told in one sentence that this was achieved. I thought I would remind you that neither borrowing nor asset sales would have an immediate effect on the bottom line.

Mr Humphries: Who pointed out that it would? I didn't say it would.

MR QUINLAN: You claimed it. I will close by saying there is no economic miracle here. I have to say that I am disappointed at the level of misinformation that surrounds a result that could have been better for you. Because of a number of initiatives that have been taken, it is a good result for the territory. Some of those initiatives are yours, and some of those initiatives inflict pain upon the community. The Treasurer talked about the political pain that will have to be endured. That is nothing compared with the pain of people who do not have jobs any more, who have had to move out of town because they no longer work here. Thank you, Mr Temporary Deputy Speaker.

MR BERRY (4.17): In speaking to the Appropriation Bill 2000-2001, I want to deal first of all with education. Much has been said about education and the government's final recognition that it would accommodate pay rises for teachers. The interesting thing about this is that there has been a big patch of unease in the education system as a result of the government's failure to deal with this issue in the past. Its first policy in relation to pay rises is that everything has got to come out of the education system— that this was going to be another education cut, long recognised and accepted by those people who understood the education system. But the Carnell/Moore cabinet insisted that these education cuts would have to be made if there was going to be a pay rise for teachers.

At the end of the day, in an enormous climb down, the government agreed to the reasonable request of teachers for a pay rise. That was a triumph for the commitment of teachers and their union to our education system. Their motto is that public education works, and it does. Public education has to be the trendsetter for education in this country. If public education does not maintain that standard then this country will go backwards.

In the ACT for the last three years there has been tension in the education system caused by the approach that this government has taken. There were cuts at first from central office in the education department. Of course, this impacted on teachers. Teachers were forced to provide the resources within schools which had been withdrawn from them. As well as this, they have had to cope with the school-based management system and the difficulties that that has caused in the education system.

Nothing has damaged progress in the education system more than the government's failed wages policy. I must say that I am pleased that they have accepted, in the end, that it was a failure and provided supplementation for teachers' wages. But it should not have stopped there. Let us not forget Bill the Bursar Basher's efforts, when bursars were stood down as a result of a claim for a pay increase. Other workers who took similar action were not so treated. These workers were treated in this way because they were considered to be industrially weak. They were usually female, mostly part time, and usually in single positions around various schools—easy targets for this heavy-handed minister in this crazy industrial relations system which has been spawned by Peter Reith and John Howard.

It is no secret that there is one Reith-trained minister—Mr Smyth—in the Carnell cabinet. So we have this unfortunate industrial circumstance which has been pulsing like a festering boil in the education system over the period of this government's term of office. One thing that all of that has prevented is progress in our education system. What has happened in education in the ACT in the last five years of the Carnell government? Not much I would suggest. Education has mostly been marking time while the government gets on with its economic rationalist approach to dealing with its public servants.

I am pleased that the teachers have achieved their pay rise. I am happy to have campaigned with them to ensure that they got a decent pay rise, and that it was adequately supplemented in this year's budget. I do not think it was because of any love for teachers that this occurred. It was merely because the campaign was getting too much for the government—a government that went back on its promise to maintain teachers' funding in real terms throughout this term of office. I mentioned the central office cuts and the impact that had on teachers. I did not mention the cuts to the college system which, of course, was a breach of the Carnell government's commitment to the electorate before the last election.

I want to deal also with the CIT. Budget Paper No 2, *The 2000-2001 Budget at a Glance*, asks the question, "Where does your money go?" If you have a look at last year and this year in relation to CIT you will see that there is about an $8.8 million difference. You will also see that there was some supplementation because CIT could not maintain the standards set by the government last year, and five odd million was injected into the CIT. This year around a couple of million dollars is going to be taken out of the CIT. There is a threat in the budget paper that there will be no more supplementation for the CIT—not like last year; that is over, forget it. It says clearly that there will be no more supplementation, that there will be no more capital injections.

There is an implied threat there that the CIT will be worse off than the claimed couple of million dollars. The CIT has had to deal with the ideological obsession with privatisation by this government and the federal government. My young constituents have had their

hours compressed, teachers have not been available for certain courses, and so on. These cuts are impacting on students within the CIT system. The result, of course, is that students are not getting the benefit of the so-called social capital that this government trumpets. Social capital will be a clear lacquer that this government tries to place over everything cuddly that it does but it will not take you long to break through this thin veneer and discover what is lurking underneath.

Mr Humphries took to task one of my colleagues for not mentioning the feel the power campaign. I will just mention that briefly. We thought there would be bound to be a dollar or two in the budget for the feel the power campaign because this government were so wedded to it. At one time they were rusted onto it. I recall the debate when everybody thought number plates displaying the words "Feel the power" were such a good idea. I thought to myself, "I will duck around the car yard to see how many of them are still committed to feel the power." I searched and I searched and I could not find one feel the power number plate.

Mr Humphries: They are very valuable in that case.

MR BERRY: No, they are all gone. Not even the government want them now. I have not been able to find any mention of the feel the power campaign in the budget so I have to assess, on the face of it at least, that it is dead, and not before time. So there is one plus from the budget. That is all the time I will devote to the feel the power campaign for the moment.

Let me now deal with the Floriade fee. Floriade has been dragged down year after year by this government to the point where it is almost beyond redemption. Although we are to have a low fee and we are now back to somewhere near where we ought to have been, what is missing is a recognition that it is the Canberra community which heavily subsidises this major festival. It is subsidised by the Canberra community and now there has been a new fee structure adopted which does not recognise that subsidy. When people from nearby New South Wales or other states of our great Commonwealth come to the ACT to visit Floriade, they get in for five bucks. That is not a bad thing; I am sure that a lot of people will be attracted as a result.

People from the ACT get in for five bucks too, but they pay out of their taxes a subsidy for the Floriade. So they pay twice. It is not hard to make out an argument that there is something unfair about the new Floriade fee structure where people have to pay twice—that is, residents in the ACT pay twice and people from outside the territory pay once. We are being very generous to our interstate friends and they should feel generous towards the ACT government and the ACT community for the subsidy that we pay.

It has been an appalling few years for the Floriade. Floriade has withstood the onslaught of the government's approach even though the ad hoc decisions that we have seen would have brought any other festival to its knees. This great flower show continues to survive more or less as a result of the commitment of the people who built, put together and have attempted to manage it in these circumstances.

I want to go to the wages issue. Throughout the term of this government we have seen various struggles involving sectors of the trade union movement which are concerned about pay rises for their members. We saw the Chief Minister's Department pay rises.

My recollection of that is that they were fully supplemented. Other departments did not get fully supplemented. I see that the police are fully supplemented. We now know that the teachers will be fully supplemented. There is an industrial disruption looming at the CIT because non-teacher members who work at the CIT have not got a similar pay offer. They are going to have to fight for theirs, and good luck to them.

The nurses were forced to accept the shoddy deal which the government wanted them to take to avoid giving them a real pay rise. That has now evaporated because of the federal changes to fringe benefits payments and the favourable tax position that the public hospital has found itself in. Now that that has evaporated, the nurses have got a problem with their pay rise. So overall we have got this approach to industrial relations and in particular to pay rises, which is just chaotic.

The fire fighters have not received the pay rise they have been pursuing because they have been put in the same position as the teachers found themselves—that is, the rise has got to come out of fire services. So if fire fighters want a pay rise, they have got to reduce services and that means lives and property will be threatened. But this government does not seem to be concerned about that. It is even less concerned when it takes pay rises for itself—pay rises which, incidentally, are based on comparative wage justice in the other states. Yet it ignores the genuine and proper pay claims of workers within the ACT public service. This is an episode that is going to be left for future governments to deal with because it will not go away. The inequities that are being entrenched in our public service, our ACT government workforce, are a difficulty which a future government will have to deal with because this government just has not got the wherewithal to deal with the issue.

I have briefly touched on these issues in dealing with a few portfolio areas that I am familiar with in relation to the budget. I will have more to say when we deal with and absolutely shred this budget throughout the estimates process. It is, as has been said, a good time to be Treasurer. There is no doubt that windfalls have assisted this Treasurer. As my leader has said, much of the success of this government has been built on the pain and suffering of others in the past.

It is a fortunate time for the ACT. It is not good management to take one's community of citizens through a painful period and force them to suffer just to demonstrate that in some way you get the tick as an economic manager and you can be hardnosed. What you have got to do is find a balance. Throughout the cycle this government has not found it. (*Extension of time granted.*) What it has been able to do because of this fortuitous windfall is have a great splurge and then try to paint itself as having some sort of capacity to deliver a socially just outcome for the community. Well, ask the community who have had to put up with the government over the last five years. They will not agree with you and neither will the community that have seen this budget now.

Mr Stefaniak: They voted for us last time.

MR BERRY: Somebody said, "They voted us in last time." No, they did not. This Assembly voted you in last time, not the community. This government still has got a lot to learn and inventing a package of social capital will not convince anybody.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.33), in reply: In closing the debate, I will run over a few of the points that have been made. I was very grateful to hear some members who spoke in this debate—pitifully few I have to say—acknowledge that it has been a pretty significant achievement for the ACT, and the ACT government in particular, to have finally broken out of an operating loss situation.

Obviously today we are in a financial year where we expect to come in still at a loss—it will be a small loss but still at a loss—and during next year hopefully we will all still be here and we will be in surplus. Let us hope that nobody in the Australian Capital Territory is ever visited again with a loss of the kind that has been referred to. The legacy we are handing on to our children is one of surplus budgets and reasonable prospects of the territory being able to manage to do the things it needs to do for its citizens without having to borrow excessively, without having to run up debt. Breaking through that barrier into surplus, into the black, is pretty significant and I thank those members who chose to acknowledge it.

Mr Stanhope described the budget as an attempt to reinvent Ms Carnell. I would have thought giving the Treasury away to me and so on was not much of a reinvention.

Mr Quinlan: Why did you do it then?

MR HUMPHRIES: Because it was not about reinventing Mrs Carnell—that is why we did it.

Mr Quinlan: What was it about?

MR HUMPHRIES: It was about making sure that it was possible to deal with the important issues with a fresh face, a fresh pair of hands and a fresh mind. I would have to say I have been able to deliver a surplus budget only on the back of the hard work of my predecessor, Kate Carnell.

I note how often the Labor Party refers to Kate Carnell's charisma, how often they refer to her photogenic qualities and how often they refer to the fact that she is always out there in the media and always taking media opportunities. I have to say that it sounds to me a lot like jealousy. It sounds a lot like six people, who have not got as much charisma between them as Kate Carnell has got in her little finger, wanting to put down this woman who constantly does them in in the media stakes.

There have been a whole range of lines in the media about this budget, both in the draft budget process and the final budget process, and one by one each of them has fallen over. Each one has gone flat, evaporated or collapsed after just a matter of days. It was claimed that the final budget would be completely transformed by the GST and that the draft budget was completely nonsensical and without any substance because we did not know the final effect of the GST. Mr Quinlan now knows very well that the final budget has not changed as a result of the GST, except to the extent of a couple of fairly marginal decisions the government has made about how the GST will be carried on to certain community organisations. With that and a couple of other very small exceptions, this budget is the same in structure as the one that was presented in draft form in January.

Then we had Mr Quinlan's claim that, apart from the GST component, the final budget would be no different to the draft budget. He said, "There would be not one iota of difference between these two documents. We were told what we are going to get and the government would accept no change, no compromise, no adjustment between the draft and the final." As we know, that is also untrue, that that is also going out the window. It is another false claim.

It was claimed just before or when the budget was brought down that the predicted budget surplus to be delivered by the government was not a real surplus. That claim evaporated the day the budget was brought down, so that did not last very long either. Now, we are told that the budget is an attempt to reinvent Ms Carnell. I suppose that, too, will last for as long as the other claims about this budget.

Mr Stanhope went through a list of indicators that he says prove the ACT is not looking as good as the government makes it out to be; that show that things are actually getting a little bit nasty around here and that "the good times cannot last, ladies and gentlemen". These days many indicators are produced of our economy and society. It would be an extremely lazy person who would not be able to find a few indicators of something not being particularly rosy, no matter how good the indicators were overall.

I notice that Mr Stanhope, in running through his list, did not mention unemployment, which is standing at its lowest level in the decade.

Mr Quinlan: Actually, he did. Not the lowest in the decade, but he did mention unemployment.

MR HUMPHRIES: He mentioned employment growth. He said the unemployment figures are excellent, and the participation rate is excellent. The one thing that has a little bit of a dark cloud over it is employment growth, and that is what Mr Stanhope took up to prove that things are not going so well. What we have is a person who, in looking at the beautiful picture, focuses on a smudge and says, "This is terrible." What sort of an objective assessment of this budget is that? Mr Stanhope did not mention state final demand. He did not mention tourism accommodation. He did not mention housing finance. He did not mention retail trade. He did not mention job vacancies. He did not mention business confidence. He did not mention dozens of other indicators which are quite consistent.

The fact is that this territory is in good shape at the moment. Apparently none of this is to do with the ACT government. It has just happened. I would like to know why it is that in the early part of the period that we were in office and things were going somewhat pear shape and bad, particularly with the federal government's intervention in respect of Commonwealth public service numbers, we were to blame? Why was it our fault, not the Commonwealth government's fault, that things were going pear shape? Now they are going well, somebody else is taking the credit. Mr Quinlan talked about the need for a bit of honesty in the budget figures. A bit of honesty in some of the comments about the budget would also not go astray.

Mr Berry had a long list of things to say. It was the usual Wayne Berry thing. He spoke about how dreadful it was that teachers were given only 11.6 per cent. He was depressed about waiting lists and a whole range of other things. I kept thinking to myself, "What

was happening with these indicators when Labor was in office, when Mr Berry was a minister in a government?" Every single indicator that he mentioned, except for the Floriade fee, was worse when they were in government.

Mr Moore: And getting worse.

MR HUMPHRIES: And getting worse. He said that the teachers' pay rise of 11.6 per cent it had to be forced out of us. How much did the Labor government give teachers when they were in office, when inflation was higher? He talked about cuts to the CIT. What happened to teacher numbers in the school system under Labor? In 1993, 82 teachers were cut, or were attempted to be cut, by Labor. You have to ask yourself: where are these people getting off in telling us how bad things are today?

Let me come to a couple of matters which need to be put on the record. First of all, I concede the point that Mr Quinlan made about total territory expenses being the figures to which I should have been referring in question time—where a 5 per cent increase in expenses was lower than the rate of inflation of 6 per cent. He is quite right about that. But he is quite wrong in saying that the government has not really earned, through the Grants Commission process, credit for the improvement in the ACT's financial position. The argument that has been put is this—

Mr Quinlan: We know this one. This is not opinion—this is fact.

MR HUMPHRIES: No, it is not a fact and I will tell you why. You have said to us, and Mr Stanhope has repeated the argument, that the improvement in the relativities which the Grants Commission decided upon in its 1999 report delivered the ACT that great outcome which has pushed us up into a surplus. In the five-year period to which the figures relate we had the Commonwealth government downsizing and we had bad economic results in the ACT. The averaging of those five years meant that our relativities improved significantly and that is the reason we have got a good return from the Grants Commission.

There is a pretty good argument, on the face of it, to say that the ACT government could not take credit for Commonwealth government cuts to the federal public service, and up to a point you would be right. But the argument falls down when you look at what the Grants Commission actually decided and the extra amounts that they granted to the ACT and how those extra amounts are broken down. The Grants Commission awarded the ACT $19.7 million as a result of relativities improving from below one to above one. These are the mechanical changes that Labor has described. This produced a $19.7 million credit benefit to the ACT from the Grants Commission.

The ACT government's submission to the Grants Commission focused on a much more important argument, and that was changes to the calculation of revenue and expenditure with respect to the ACT. We argued very strongly that all sorts of individual factors, national capital factors, were not properly assessed by the Grants Commission and should be considered differently.

The Grants Commission assessed that the factors that gave the ACT its windfall amounted to $57.4 million. We had a total extra $64 million from the Grants Commission—I think that is the right figure. Of the total credit that they gave us,

$19.7 million came from the mechanical changes and $57.4 million came from the issues the ACT government specifically argued as being improvements in revenue and expenditure methods of calculation. So there is the evidence. The ACT government's submission did make a difference. We argued our case on the non-mechanical issues and this accounted for two-thirds—actually it is more like three-quarters—of the total increase awarded to the ACT. So there is no windfall, there is no lucky happenstance here. It was a result of hard work and that is what the figure clearly demonstrate.

Mr Quinlan also said that basically self-government in the ACT started with debt—I think that was the phrase he used. I want to show members a graph—I have tabled it before in this place so I will not do so again—which sets out the balance of the consolidated fund of the ACT between the years 1990-91 and 1995-96. As members can clearly see from the graph, the consolidated revenue fluctuated quite a lot. Consolidated revenue—in other words, the ACT's reserves—reached a peak in September 1991, not long after the Labor Party came to office again, of about $218 million. Wayne Berry tried to get hold of, but failed miserably to capture, this working capital. But $218 million is the amount we are talking about.

This graph clearly shows over the intervening years between Labor's coming to office in 1991 and leaving it in 1995 a continuous erosion of that consolidated revenue reserve. The point was reached in April 1995—surprise, surprise, just a month or two before an election—where it actually reached zero. So the reserves went from $218 million to zero. This was all Labor's work, every last penny of it. That is where the ACT's legacy went, that is where the debt rose, that is where the superannuation liabilities mounted, that is what we inherited from Labor, and that is what the Auditor-General was referring to in his report on the 1995/96 operating loss. That is why this budget is a major achievement for the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.48): Pursuant to standing order 174, I move:

> That the Appropriation Bill 2000-2001 be referred to the Select Committee on Estimates 2000-2001.

Question resolved in the affirmative.

ESTIMATES 2000-01—SELECT COMMITTEE
Reference

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.49): Mr Temporary Deputy Speaker, I seek leave to move a motion concerning the referral of Appropriation Bill 1999-2000 (No 3) to the Select Committee on Estimates 2000-01.

Leave granted.

MR HUMPHRIES: I move:

> That the resolution of the Assembly of 11 May 2000, as amended today, 25 May 2000 which appointed the Select Committee on Estimates 2000-2001 be amended by:
>
> (1) adding to paragraph (1) the following words:
> "and also the appropriations provided for in the Appropriation Bill 1999-2000 (No 3)";
>
> (2) inserting the following new paragraph (1A):
> (1A) that the Appropriation Bill 1999-2000 (No 3) stand referred to the Committee and, on the Committee presenting its report to the Assembly, resumption of debate on the question "That this Bill be agreed to in principle" be set down as an order of the day for a later hour this day;";
>
> (3) adding to paragraph (3) the following words:
> "and the Appropriation Bill 1999-2000 (No 3)".

The effect of this motion is to give to the Select Committee on Estimates for the 2000-2001 financial year the third appropriation bill for this financial year. Members will recall that on Tuesday I tabled this third appropriation bill, which relates to additional expenditure for ACTION and for criminal injuries compensation. I take it that it is the wish of the Assembly that such bills be dealt with by an estimates committee. We do not believe this is strictly necessary, but that has been the mood of the Assembly on previous occasions. If the motion is passed, the committee which Mr Corbell chairs would consider these matters as well. The committee will be asked to deal with two financial years but I am sure that its members are quite capable of taking on that additional task. I commend the motion to the house.

Question resolved in the affirmative.

SUBORDINATE LEGISLATION (INCLUDING EXPLANATORY STATEMENTS UNLESS OTHERWISE STATED)
Papers

The following papers were presented by **Mr Humphries**:

> Canberra Institute of Technology Act—Appointments of Members of the Canberra Institute of Technology Advisory Council—Instrument Nos 126 and 127 of 2000 (No. 20, dated 18 May 2000).
>
> Children and Young People Act—Exemption of family day care schemes from the application of subsection 328 (1) of the Act—Instrument No. 125 of 2000 (S16, dated 10 May 2000).
>
> Land (Planning and Environment) Act—
>
> Approval of and copies of Plans of Management for Inner Canberra's Urban Parks and Sportsgrounds and Tuggeranong's Urban Parks and Sportsgrounds—Instrument No. 143 of 2000 (S19, dated 23 May 2000).
>
> Determination of criteria for the authorisation of a refund on termination or surrender of a lease granted under section 163—Instrument No. 130 of 2000 (No. 20, dated 18 May 2000).
>
> Determination of criteria for the direct grant of Crown leases to community organisations—Instrument No. 131 of 2000 (No. 20, dated 18 May 2000).

Determination of criteria for the direct grant of Crown leases to community organisations for an educational establishment—Instrument No. 132 of 2000 (No. 20, dated 18 May 2000).
Road Transport (Driver Licensing) Act—Road Transport (Driver Licensing) Regulations 2000—Approval of the code of practice for Accredited Driving Instructors—Instrument No. 129 of 2000 (No. 20, dated 18 May 2000).
Road Transport (General) Act and Road Transport (Safety and Traffic Management) Act—Road Transport (Safety and Traffic Management) Regulations Amendment—Subordinate Law 2000 No 21 (No. 20, dated 18 May 2000).
Road Transport (General) Act and Road Transport (Vehicle Registration) Act—Road Transport Legislation Amendment Regulations—Subordinate Law 2000 No 22 (No. 20, dated 18 May 2000).
Vocational Education and Training Act—Appointment of member of the Vocational Education and Training Authority—Instrument No. 128 of 2000 (No. 20, dated 18 May 2000).

LAND (PLANNING AND ENVIRONMENT) ACT—DEVELOPMENT APPLICATION—REVOCATION
Paper and Ministerial Statement

MR SMYTH (Minister for Urban Services): For the information of members, I present the following paper:

Land (Planning and Environment) Act, pursuant to section 229A—Statement relating to the revocation of Development Application 20002308—Block 13, section 18 Hume.

I seek leave to make a short statement.

Leave granted.

MR SMYTH: The paper was actually circulated to members during the presentation of papers yesterday. The proposal is the call-in of the SouthCare Aero Medical Service site in Hume. The proposal does meet the planning objectives of the Territory Plan for this area. It is quite consistent with the rural and broad acre area. In terms of offering a long-term facility for the SouthCare Aero Medical Service, it is important that this was done quickly so that work could be done to get the helicopter under cover before the onset of winter. Apparently there were difficulties last year in terms of the props icing up. It was for these reasons that I have called this in.

PRESENTATION OF PAPERS

MR MOORE (Minister for Health and Community Care): For the information of members, I present the following papers—and I mentioned this morning that I would be tabling them:

Mental Health (Treatment and Care) Act—Discussion paper—Proposed amendment to the *Mental health (Treatment and Care) Act 1994*—

Procedures for emergency detention, dated May 2000, together with Attachments A and B.

ABUSE—A COMMUNITY RESPONSIBILITY—A.C.T. DISABILITY SERVICES ADVISORY COMMITTEE REPORT
Paper and Ministerial Statement

MR MOORE (Minister for Health and Community Care): For the information of members, I present the following paper:

Abuse—A Community Responsibility—A report commissioned by the ACT Disability Services Advisory Committee for the Commonwealth and ACT Governments, dated 1998.

I ask for leave to make a statement on this report.

Leave granted.

MR MOORE: I thank members. I am pleased to table in the Legislative Assembly the Disability Services Advisory Committee report entitled *Abuse—A Community Responsibility*. This report was produced at the request of the Disability Services Advisory Committee (DSAC) in 1998 under the guidance of a steering committee comprising DSAC members and others. Mr Speaker, this was something I agreed to do in response to the report from the Health and Community Care Committee.

The report was not finalised or endorsed within the term of the previous committee. DSAC has now been replaced by the Disability Advisory Council which was appointed last year. The report was withheld as it had not been endorsed by DSAC and we had also received legal advice which indicated that allegations in the report could result in defamation action against a range of people, including the report's authors, the committee and the government. I have since sought further legal advice and I am now pleased to be able to table this report in the Assembly, with minor deletions as indicated. These deletions are three anecdotes of abuse which were not substantiated by a process of investigation.

While the report has not been endorsed by DSAC, I believe it provides a genuine and constructive discussion of factors which contribute to abuse and, more importantly, how these may be addressed in the ACT context. While I am concerned at specific allegations of abuse, it is more important that incidents are properly investigated to establish the circumstances of the event and an appropriate response, both relating to the event and improving the service system to ensure it does not recur. Indeed, many of the recommendations of the report focus on this process. The Health and Community Care Complaints Commissioner has a formal procedure for investigation of such incidents.

I would also like to mention some of the developments which have occurred since 1998. As recommended by the DSAC report, the department is working to add an additional standard to its purchase agreement, with services supporting people with disabilities. Agencies are currently required to comply and report against eight standards. An additional proposed standard will read:

> Each consumer has the right to be free from physical, sexual, verbal emotional abuse and neglect.

Underpinning this standard, we will develop a definition of abuse guided by the report, reinforce agencies' response mechanisms, many of which are already in place, and monitor service providers to ensure that priority attention is given to abuse prevention. From 1999-2000, the ACT Community Care contract has also required a specific abuse prevention approach. I note, however, in the DSAC report that as early as 1998 ACT Community Care disability programs abuse prevention policies, among others, are commended as best practice.

Non-government services agencies funded by the ACT government are also required under their contracts to have a complaints response procedure in place. I also note that a national project is under way to identify best practice in preventing abuse, which will further assist ACT service providers.

Mr Speaker, there has been speculation that the withholding of this report by government has been a cover-up. I trust that, with the tabling of the report, those speculations will be addressed. I also draw members' attention to action already taken and further action planned over the next year to ensure that abuse is prevented.

PRIVILEGES—SELECT COMMITTEE
Proposed Appointment

Debate resumed.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.56): I believe that the Assembly has come back to this sort of issue before. Issues of ministerial conduct are being raised in this Assembly with rather more frequency than they have been raised before. I have to confess that I do not believe it is because the conduct of ministers in this government is any more worthy of comment than in previous years. I believe, Mr Speaker, that it has become something of a political ritual in this particular chamber. In fact it is interesting that actually a year ago—eerily, it is on the very day—

Mr Berry: Do you know anybody who blew up a hospital? You don't know anybody who blew up a hospital.

MR HUMPHRIES: Nor did I flush $4 million down the drain for a VITAB deal.

Mr Berry: Neither did I.

MR HUMPHRIES: Well, you did, I'm afraid. You did.

MR SPEAKER: Order, please! I will not have interjections.

MR HUMPHRIES: Go and read Professor Pearce, Wayne. Refresh your memory about that. The fact is that on this day last year, in the opposition reply on the budget, we had

a motion to censure a minister, and it was me. In fact, it was more than a censure motion; it was a motion of no confidence in a minister based on the conduct of one of his staff. Isn't it funny how today, a year later on the same day of the year, we have another motion impugning the conduct of a minister for the behaviour, so-called, of their staff?

Mr Corbell: Are you superstitious?

MR HUMPHRIES: No, I am not superstitious. I am just suspicious, Mr Corbell. Mr Speaker, let us look at what the information before the Assembly is on this subject. We have some statements by Mr Gower, the President of the Gungahlin Community Council, to the urban services committee which suggest that the government has strongarmed the council to a particular point of view. The argument has been put—

Mr Corbell: "Pressured" was the word.

MR HUMPHRIES: Whatever you want to say.

Mr Corbell: I didn't say it. He did. That is the point.

MR HUMPHRIES: Mr Speaker, I am trying to—

MR SPEAKER: Order, please! I will deal with somebody if this keeps going on.

Mr Corbell: I apologise.

MR HUMPHRIES: I heard Mr Corbell in silence when he made his opening speech, Mr Speaker. The evidence has been put before that committee. Clearly, the evidence by Mr Gower could be read to suggest that there had been some pressuring or strongarming, whatever you want to call it, of the Gungahlin Community Council by Mr Smyth or by someone in his office. I do not have any knowledge of the actual events but, looking at the evidence, I do not personally doubt that Mr Gower believed what he was saying when he gave that evidence to the standing committee. He clearly felt fairly strongly about it; he clearly gave that evidence in that way.

The government concedes that the issue needs to be explored. It needs to be examined properly. The question is: how should that occur? In what form should that occur? In a moment I will be moving an amendment to this motion to provide for this matter to be dealt with by the Standing Committee on Planning and Urban Services, the committee in which this incident was alleged to have occurred in the first place.

As well as having that evidence of Mr Gower, a further set of circumstances has been placed before this Assembly.

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

MR HUMPHRIES: Mr Speaker, the evidence now has been added to by other statements made by Mr Gower and by the Gungahlin Community Council subsequent to that hearing of the Planning and Urban Services Committee.

There are therefore two explanations as to what happened on the day in which that evidence was given by Mr Gower. One is that Mr Gower came to the committee and he had been strongarmed by somebody and he gave the evidence and meant what he said. The other is that Mr Gower came to that committee to give that evidence, misunderstanding comments that had been made to him personally by the minister or somebody else about the new road to link Gungahlin with the rest of Canberra.

Mr Gower himself maintains, and the Gungahlin Community Council itself now maintains, that that latter interpretation is the correct interpretation, I gather. We need to find out, quite legitimately, what the explanation is. What we do need to find out is what has actually occurred, and I believe, for a number of reasons, that the best way of doing that is by referring the matter back to the committee where this issue first arose.

First of all, it is the committee where this originally occurred. This committee has the evidence before it. The committee will be able to ascertain the extent to which these issues are the same issues that were put in the same way to the committee on the first occasion. Secondly, as Mr Moore has said, elevating this issue to a point where we say to the community, "We want to find out about this matter by getting certain witnesses to come back before the committee," courts the possibility of the witnesses not coming to the committee. Mr Corbell scowls at that suggestion.

Mr Corbell: That's a really good reason not to hold an inquiry, isn't it? It's a silly reason.

MR HUMPHRIES: No, it is a good reason not to hold a select committee inquiry. It is a better reason to hold an inquiry by the very same committee which has already examined those issues.

There is a third issue, Mr Speaker, a very important issue, which I want to put before the Assembly, to deal with the trigger for this motion. Members have heard already quoted *House of Representatives Practice*, which suggests that where a witness before a committee is influenced, intimidated, bullied, bribed or threatened in some way, a potential contempt of parliament occurs as a result of that happening. Where a witness before a committee is threatened or cajoled in that way, a potential contempt of parliament occurs.

I ask members to look at the transcript of what happened in the urban services committee, the so-called conversations which are purported to constitute the threat, cajoling or intimidation of this witness, and point to the part where it indicates that the person's evidence before a committee of the Assembly was what the person making these threats, supposedly Mr Smyth, was trying to influence.

Let us suppose, for argument's sake, that Mr Smyth did say what Mr Gower said on 5 May he had said to him. Supposing these brandishments were made to Mr Gower, for argument's sake. Mr Smyth denies that they were said and I believe him. Even if they were said, what evidence is there that this was designed to produce a change in evidence before the Standing Committee on Planning and Urban Services? There is none. There is not one single reference in the transcript that I have read to the standing committee or any other committee of the Assembly.

If we assume for the moment that these comments were made by Mr Smyth to influence Mr Gower, they could be argued to have been said, if they had been said, to influence the stand of the Gungahlin Community Council on this issue in the public arena when they were asked by journalists or the media to make comment on these issues. I ask Mr Rugendyke, who is being intervened on now by Mr Corbell, to listen to this very important argument.

Mr Wood: You concede the case, don't you. You concede the case.

MR HUMPHRIES: No, I am not conceding the case. You cannot have a select committee on privileges unless there is some evidence that a witness before an Assembly committee has been suborned in some way. Where is the evidence that any witness has been suborned in respect of the appearance before the committee? There is none in this. There is none at all. *(Extension of time granted.)* I thank members. If I have missed something, someone can point it out to me. Where is there reference to the standing committee in here? There isn't one, of course. Even if these words were true, which they are not, they do not amount to a breach of privilege because at no point is Mr Gower alleging that Mr Smyth said to him, "You have got to go into that standing committee"—I do not know how long ago it was—

Mr Smyth: It was on 5 May.

MR HUMPHRIES: How long before that was the meeting at Gungahlin?

Mr Smyth: In mid-April.

MR HUMPHRIES: So it was three weeks from when this conversation took place and when the committee had its hearing. You are saying that Mr Smyth was trying to get him to change his evidence before the committee, but Mr Smyth probably did not even realise it was going to take place at that point in time.

Mr Corbell: He did.

MR HUMPHRIES: Did he?

Mr Corbell: Yes, the witness was already scheduled to appear at that time.

MR HUMPHRIES: How did Mr Smyth know that?

Mr Corbell: The roster was circulated to his department. He would be aware of it.

MR HUMPHRIES: He saw the roster, did he? I do not see rosters of witnesses appearing before committees.

Mr Corbell: You do not deal with our committee.

MR HUMPHRIES: In my own portfolio I do not see those lists. Mr Speaker, I again ask for some—

Mr Corbell: They were scheduled in advance, and you know it.

MR HUMPHRIES: That may be the case, but I don't see—

MR SPEAKER: Order, please! Just a moment. We are not going to have a cross-examination.

Mr Corbell: You asked the question and I am giving you the information.

MR HUMPHRIES: Mr Speaker, I have to appeal here. I have been continuously interjected upon. I ask for some assistance.

MR SPEAKER: Yes. I do not want a cross-examination from either side, thank you.

MR HUMPHRIES: Mr Speaker, there is no evidence that Mr Smyth, even if he said those words, intended them to change Mr Gower's evidence before the standing committee. There is no evidence that Mr Smyth even knew the standing committee was meeting on a particular day when Mr Gower was going to be a witness. That is an important argument.

Other cases have occurred of people having their arms twisted or influence being exerted on people to get particular results that do not relate to committees of the Assembly. We assume that, as soon as somebody reports that to an Assembly committee, that act of attempting to influence somebody becomes a contempt of parliament. Think about that. It is not very logical.

Supposing I say to someone sitting up in the gallery, "You had better support the government's budget that has just come down otherwise we are going to get very angry with you and not build new roads in your suburb. We want you to say something nice about our budget," and that person subsequently turns up in an Assembly committee and reports that, suddenly what is merely an act of bad manners to a person in that setting becomes a contempt of parliament. You cannot work like that. You have got to actually—

Mr Kaine: Are you saying the minister is guilty of bad manners?

MR HUMPHRIES: I am saying that nothing was said of the kind that has been alleged by Mr Gower, and I say that because I know Mr Smyth is a man of integrity. Even if it was said, it could not constitute a contempt of parliament and therefore it should not be referred to a select committee on privileges. It cannot.

I said before that other brandishments and threats and so on had been made from time to time. I know Mr Wood has raised the question of how members of community organisations have had implied threats made to them that if they do not support a particular government position there will be cuts to their funding.

Mr Wood: That is right. I have said that.

MR HUMPHRIES: Mr Wood confirms that. I want to confirm to this house that such things do go on.

Mr Corbell: Oh, you do threaten people.

MR HUMPHRIES: No, no, let me finish. Mr Speaker, I can give members of this place a tangible example of where it has happened, in fact. Some years ago there was a bill before this house to provide for the medicinal use of cannabis. It was a bill introduced by Mr Moore and supported by the then Liberal opposition to allow the medicinal use of cannabis in certain limited circumstances, a proposal which, as an aside, I understand the Labour government in Britain is now supporting, and others as well. At the time we put out a campaign supporting this particular bill. *(Further extension of time granted.)* I thank members.

At that stage one of the most vocal supporters of that bill, privately and in the negotiations relating to the preparation of such things, was the AIDS Action Council of the ACT. They were very strongly supportive of the bill. When the bill was tabled and argument blew up there was a strong attack on the then opposition and Mr Moore from the then government.

Mr Wood: We all remember that very well.

MR HUMPHRIES: Indeed. I am sure you do remember that very well. When that blew up we turned to the AIDS Action Council and asked it to indicate publicly the support it had for that bill which it had indicated privately.

Mr Moore: And very strongly.

MR HUMPHRIES: And very strongly indicated. We were told in no uncertain terms by a senior person at the council that they had received a telephone call from a minder in a minister's office—I will not name the minister or the minder publicly—

Mr Wood: That then minister might contest your version, mind you.

MR HUMPHRIES: You are very welcome to, Mr Wood. The person from the AIDS Action Council said they were told by this minder that if they came out and publicly backed the opposition's and Mr Moore's position on that bill their funding would be cut. Those claims were made quite expressly, Mr Speaker, in that way. We wanted to go public on the matter and the council asked us not to do that because, frankly, they were afraid, and we did not do so. So yes, Mr Speaker, such things do take place.

Mr Wood: That version would be contested by the person who is no longer in this Assembly.

Mr Moore: That may be the case, but I would put it on oath. That is what I was told.

MR HUMPHRIES: I am sorry, we have other people who say otherwise, and I suggest, Mr Wood, that you do your own research on the subject.

Mr Speaker, in that particular case there is a threat made against somebody for political purposes, if you like. Are those circumstances I have just described to members here a contempt of parliament? No, they are not, really. They are pretty unfair, pretty bad, but

they are not a contempt of parliament. Would they become a contempt of parliament if the officer from the AIDS Action Council appeared before an Assembly committee and said, "This was said to me by this minister's minder"? Would that appearance before the committee transform it into—

Mr Wood: In any event, that is not relevant to this issue.

MR HUMPHRIES: It is relevant to this issue. It is to the core of this issue. It is exactly the same as this issue.

Mr Wood: Did that happen in a committee?

MR HUMPHRIES: No. But I am saying—

Mr Wood: Not conceding anything, but would it happen in a committee?

MR HUMPHRIES: You don't understand, Mr Wood. I will explain simply. What I am saying is that the action I have described, of itself, would not be a contempt of parliament. Nor would it become a contempt of parliament if the person who had been threatened trotted up to an Assembly committee and reported that fact to an Assembly committee, because the threat that was made to that person and that person's organisation—

Mr Wood: Alleged.

MR HUMPHRIES: Well, I believe it happened, but, all right, alleged. The alleged threat that was made to that person's organisation was not made for the purpose of changing evidence before a parliamentary committee; it was made for the purpose of changing the view of that organisation. That person did not end up confronting an Assembly committee, as it happens, so the issue did not arise. But even if we assume that these words were said, and I adamantly deny that that is the case—they were not, Mr Speaker—they cannot be said to constitute a contempt of parliament because there is not one bit of evidence that they were said in order to influence a committee hearing that was happening three weeks later. There is not one shred of evidence. It is not in the transcripts. It is not in anything that has been said by either of the parties. It has not even been said, so far as I am aware, by Mr Corbell or Ms Tucker, who are the chief prosecutors of Mr Smyth. It has not been said anywhere.

On that basis, creation of a select committee on privileges is not justified, but we have said that we believe Mr Smyth's name needs to be cleared, and it should be cleared in the same way in which it was originally sullied, and that is before the Standing Committee on Planning and Urban Services.

Mr Moore: Of which Mr Corbell is even a member.

MR HUMPHRIES: Mr Corbell is a member of that committee so he has the chance to do it there, Mr Speaker. This is a matter which puts great pressure on any minister concerned. Each minister in this government at various stages has had that kind of pressure placed on them by people making accusations which, on my observation, have been rarely backed up by any hard evidence. *(Further extension of time granted.)*

We had the accusation last year that, because somebody from the staff of a minister had gone to someone's home to comfort them after the hospital implosion I, the minister concerned, had tried to influence this person about the employment of their particular solicitor.

Mr Berry: You should not be reflecting on—

MR HUMPHRIES: I am reflecting positively, Mr Speaker.

Mr Berry: You can't reflect either way.

MR HUMPHRIES: The matter was thrown out of the Assembly on that occasion, and so it should have been.

Mr Berry: Okay. It should have got up, and you deserved it.

MR SPEAKER: Order! Settle down.

MR HUMPHRIES: Mr Speaker, I ask members not to give these sorts of things credence by elevating them to this dramatic stage. We have had motions of no confidence, motions of censure, and now motions for privileges committees to be established. We have this ratcheting up of this campaign that is trying to imply that this government is full of corrupt people. It is not. These claims are not true. They are orchestrated but they are nonetheless untrue.

I ask members not to support this motion in this way. I will move the amendment which was circulated in my name. I ask members to give Mr Smyth, Mr Gower and others their chance to have those issues canvassed in an Assembly committee, but in the appropriate form, not in an unjustified select committee on privileges. I move:

> Omit all words after "That", substitute the following words "the Standing Committee on Planning and Urban Services examine the allegations of the possible improper influence of a witness, Mr Gower in respect of evidence to be given to the Standing Committee on Planning and Urban Services, and to report to the Assembly by the last sitting day of June 2000".

MR RUGENDYKE (5.19): Mr Speaker, this motion to form a select committee on privileges is an option, but that appears to me to be an extreme option. We have heard argument from both sides. We have heard of correspondence from witnesses. We have heard a lot of argument about whether or not this argument justifies a select committee. Apart from whether or not certain words were said, how they were said, or what they meant, I think it is important to consider Mr Gower, the person who appeared before the committee of which I am a part. We all know what Mr Gower said, according to the *Hansard.*

I get the feeling that Mr Gower may not have been fully aware that he was probably playing with the big boys, and I would imagine that he is somewhat embarrassed. I would expect that Mr Gower is probably worried about what might happen in the event of such a committee being appointed. I have looked at the standing orders to see how

witnesses are to be brought before a committee of any sort. In the event of an embarrassed witness who may not wish to appear, we rely on standing order 255, and he would need to be summonsed before the committee. Then, when we look at standing order 256, the heading is "Recusant witness". I am not quite sure what "recusant" means, but standing order 256 says:

> If a witness fails or refuses to attend or give evidence, the Assembly, on being acquainted therewith, shall deal with the matter.

I do not know what that means either. I do not know how the Assembly would deal with the matter if Mr Gower chose not to participate in the privileges committee process. I do not think the standing orders say how a matter such as that would be dealt with, but it appears to me to be a very severe remedy.

So, Mr Speaker, after weighing up all the arguments, it is my view that it is fair and reasonable that the matter be referred back to the Planning and Urban Services Committee, which is an option under your own ruling. I think the Standing Committee on Planning and Urban Services is the appropriate forum for Mr Gower and other witnesses to be given the opportunity to have their say on this matter. Mr Speaker, that is my position. I will be supporting the amendment to the motion in order to refer this matter to the Planning and Urban Services Committee, a forum that I believe will be able to get to the bottom of this issue in a more sensible way for Mr Gower, if for nothing else.

MR CORBELL (5.24): Mr Speaker, the issue before us this evening is not about whether Mr Smyth or any of his staff or any officers of his department breached privilege. We are not to decide on that matter. The issue is whether or not a select committee on privileges should be established.

We have just heard Mr Rugendyke indicate that he believes the most appropriate course of action is to refer the matter back to the Standing Committee on Planning and Urban Services to examine the allegations of possible improper influence of a witness. I urge Mr Rugendyke and other members who may believe this to be an appropriate course of action to reconsider. Mr Speaker, I hope that Mr Moore will let Mr Rugendyke hear my argument on this matter.

Mr Berry: Mr Speaker, I take a point of order. We are at an important point in this debate and Mr Moore is over there deliberately distracting Mr Rugendyke from the debate which is—

MR SPEAKER: I do not know that that is the case at all.

Mr Humphries: Just as Mr Corbell was when I was speaking, Mr Speaker.

MR CORBELL: Mr Humphries, in case you did not notice, I spoke with Mr Rugendyke for about 10 seconds during the whole of your very lengthy speech. Nevertheless, Mr Speaker, if Mr Moore wants to pursue those tactics, I am quite happy for him to do so.

MR SPEAKER: Mr Berry, I am sorry but I cannot direct members to do anything. If Mr Rugendyke wishes to speak with Mr Moore, that is entirely his affair.

MR CORBELL: Indeed.

Mr Berry: But anybody else has to go outside the chamber.

MR SPEAKER: I cannot do much about that.

MR CORBELL: I ask members to consider this point. Members who are willing to pursue the amendment proposed by the government should particularly listen to this argument, and I would ask them to do so. Mr Speaker, the Standing Committee on Planning and Urban Services is not the committee to consider a possible breach of privilege. It is not the place to consider it simply because we have already heard in this place that the forum, the avenue, for examining an alleged breach of privilege is a select committee on privileges. Who made that argument, Mr Speaker? It was Mr Moore.

Mr Moore outlined that a select committee on privileges has members on it who have a good understanding of the standing orders of this place, who have considerable experience, or as much as is possible in this place, in parliamentary practice and procedure, and they are often lawyers. Mr Moore himself indicated that a select committee of privileges is the most appropriate forum to consider any breach of privilege.

Mr Humphries' amendment says that the Standing Committee on Planning and Urban Services should "examine the allegations of the possible improper influence of a witness". Possible improper influence of a witness is a possible breach of privilege, Mr Speaker. *House of Representatives Practice* says that the improper influencing of a witness is a breach of privilege if it is proved. So, Mr Speaker, what Mr Humphries is saying is a possible improper influencing of a witness therefore is a possible breach of privilege. Therefore it should be considered by a select committee of privileges, not the Planning and Urban Services Committee which has no brief to consider issues to do with a possible breach of privilege. It is not the appropriate course of action.

Mr Speaker, further we have heard some other issues raised in this debate today. We have heard the issue raised that a select committee of privileges would be an extreme course of action.

MR SPEAKER: Order! Mr Corbell has the floor. If other members wish to talk they might like to go outside and use the lobbies.

MR CORBELL: Mr Speaker, we have heard that a select committee on privileges is an extreme course of action, and we have heard that witnesses might not show up, and then what would we do. Mr Rugendyke legitimately raised this concern. But, Mr Speaker, the same situation could occur with the Planning and Urban Services Committee. What if this matter was referred back to the Planning and Urban Services Committee and we asked Mr Gower to appear and he refused to do so? We would be back at exactly the same point that Mr Rugendyke raised when he spoke just now. We would be back at the point, under standing order 256, where a witness failed or refused to attend and the

Assembly had to deal with the matter. Exactly the same situation, Mr Speaker. Absolutely no difference.

Really, the argument put forward by Mr Moore and others today from the government has been a furphy when it comes to what happens if witnesses do not attend. Mr Speaker, I would hope that regardless of the forum witnesses would attend. Assembly committees to date in the history of self-government have never had to summon witnesses. If Mr Gower honestly feels that he has been misquoted as he outlined in his media statement, I would imagine he would take the opportunity to correct his statements on the record, in the *Hansard.*

The argument put forward by the government, that if we have a select committee of privileges the witnesses might not attend and then we have to get harsh with them, applies in exactly the same way to the Standing Committee on Planning and Urban Services. In both instances it is about committees calling people to attend before them to give evidence. Absolutely no difference.

The important point to remember here is that it is only a select committee of privileges which can properly examine an alleged breach of privilege, not the Planning and Urban Services Committee of the Assembly. You only have to look at the terms of reference of the Planning and Urban Services Committee of the Assembly to see that it has no responsibility for determining issues of possible breaches of privilege. That is why I would urge members to not support the government's amendment. It is based on a straw man. The argument that witnesses will not attend applies equally to whatever committee considers it. The difference is that only a select committee of privileges can consider a possible breach of privilege. The Planning and Urban Services Committee has nothing in its terms of reference to do so, nor does it necessarily have the members with the appropriate level of knowledge of parliamentary procedure and background to consider it, without reflecting on any of my colleagues on the Planning and Urban Services Committee.

The other issue I want to raise is this: Mr Smyth said in his rebuttal to my presentation this morning that I had alleged certain things about what he had said to the Gungahlin Community Council. His words were that I, Mr Corbell, had alleged it. Mr Speaker, let me make it very clear. I have alleged nothing. The person who has done the alleging is Mr David Gower, and the proof of that is in the *Hansard.* Let me again read for members some relevant parts of Mr Gower's comments. I quote:

> MR CORBELL: So is it the case that you have now decided to go with the eastern alignment, albeit in a slightly modified form, simply because the government has indicated that if it is not that alignment, it is no alignment?
>
> Mr Gower: Yes. Pressure was put on us to a degree that if we did not support the government's option, which is the eastern alignment, we would not get a road.

Not "may not get a road", or "possibly will not get a road". He said, "We would not get a road."

Mr Speaker, this raises the issue that Mr Humphries put to the Assembly. Mr Humphries said that there is no evidence that demonstrated that Mr Smyth was attempting to

influence Mr Gower's evidence. Everyone knows, first, that the Gungahlin Drive issue is a very important issue and a very contentious issue; secondly, that the Assembly had decided that the issue warranted an inquiry to determine, amongst other issues, the best possible route for the road; thirdly, that the urban services committee had published in advance its schedule of witnesses and when they would appear before the committee; fourthly, that government officials from Mr Smyth's department were well aware of the schedule of witnesses and who would be appearing when. *(Extension of time granted.)* I thank members. Fifthly, that the Gungahlin Community Council's evidence to the Standing Committee on Planning and Urban Services would be central evidence which would be given great attention and credibility simply because they are the only community organisation that represents the interests of one of the communities most directly affected by the road, the community of Gungahlin

Mr Smyth did not need necessarily to say, "I want you to change your evidence, otherwise I will not build the road." He did not need to say that because he knew—indeed we all know in this place—how important the views of the Gungahlin Community Council are when it comes to this road, because they represent the community of Gungahlin. Any attempt to suggest to the Gungahlin Community Council that they should be supporting the government's option otherwise the road would not be built was obviously going to have an impact on what information and evidence they presented to the Standing Committee on Planning and Urban Services. Any attempt to do that was going to have that influence. That is what we need to investigate. That is what we need to determine.

Mr Moore raised the issue about McCarthyist tactics, a star chamber and the tactics of Ken Starr. Let me make it very clear: a possible breach of privilege is not an issue which is pursued in a political way. Mr Speaker, I wrote to you close to a fortnight ago now asking you to consider whether or not the matter should be given precedence. I did so because I saw in the standing orders that that was the appropriate course of action. I did not, in the whole period of time since I wrote to you and was awaiting a response from you, raise the issue in a public forum. I did not mention it once. Why, Mr Speaker? Because I thought it was appropriate that you have the opportunity to consider the matter free of any public debate, and that is what I did.

If I had been political about it, if I had wanted simply to make political capital out of it, I would have told the world the moment I put the letter into the hands of staff of the secretariat, but I did no such thing. What I have done is raise the fact that the matter is to be considered in the Assembly today. I have done so because it is a valid matter of public interest. It has already been raised in a public forum, a public hearing of this Assembly, and people in the community deserve to know that the Assembly is considering it further. That is what I have done.

At the end of the day what I am asking is this: not that we determine today whether something went wrong, not that we determine today whether or not Mr Smyth acted in a way which was improper, not that we determine today whether what Mr Gower said was right or wrong, but that we determine to have the matter investigated in a way which is separate from the hot-house atmosphere which is the Planning and Urban Services Committee's inquiry into this matter.

Mr Rugendyke, Mr Hird and I are well aware of the pressure on the committee in relation to this inquiry and the very high level of public interest. I do not believe it is in Mr Gower's best interests or Mr Smyth's best interests that this matter is considered back in that hot-house atmosphere. We need a select committee which can deal with this matter appropriately and professionally; one which brings to bear the knowledge and the experience of members who have strong understandings of parliamentary practice and the rules of privilege and who are not directly involved in any way with the inquiry that is being conducted by the Standing Committee on Planning and Urban Services. That is what I am asking members to do today. It is a straightforward proposition. The evidence from Mr Gower is stark and explicit. It raises serious questions about why he gave that evidence, and I urge members to support the motion.

Question put:

> That the amendment (**Mr Humphries'**) be agreed to.

The Assembly voted—

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

Question so resolved in the negative, in accordance with standing order 162.

Question put:

> That the motion (**Mr Corbell's**) be agreed to.

The Assembly voted—

Ayes, 9	Noes, 7
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Kaine	Mr Humphries
Mr Quinlan	Mr Moore
Mr Rugendyke	Mr Smyth
Mr Stanhope	Mr Stefaniak
Ms Tucker	
Mr Wood	

Question so resolved in the affirmative.

PRIVILEGES—SELECT COMMITTEE
Alteration to Resolution of Appointment

MR SPEAKER: Mr Corbell, paragraph (2) (d) of your motion needs to be amended as it reads "to be notified to the Speaker in writing by 4.00 pm on 25 May 2000".

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

> That the resolution of the Assembly of 25 May 2000 appointing a Select Committee on Privileges be amended by omitting from paragraph (2) (d) the words "by 4.00 p.m." and substituting the words "before the adjournment".

EDUCATION, COMMUNITY SERVICES AND RECREATION—STANDING COMMITTEE
Government Response—Alteration to Reporting Date—Printing, Circulation and Publication of Report

MS TUCKER (5.50): I seek leave to move the motion standing in my name on the notice paper relating to the alteration of the reporting date and the printing, circulation and publication of the report by the Standing Committee on Education, Community Services and Recreation on its inquiry into the government's response to recommendations of the coroner concerning the death at Quamby.

Leave granted.

MS TUCKER: I move:

> That the resolution of the Assembly of 24 August 1999 which referred the Government's response to recommendations 1 and 3 of Coroner Somes into the death of Mark Watson to the Standing Committee on Education, Community Services and Recreation be amended by omitting "by the last sitting day of June 2000" and adding the following paragraphs:
>
> "(2) that if the Assembly is not sitting when the Committee has completed it inquiry, the Committee may send its Report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
>
> (3) the foregoing provisions of this resolution have effect notwithstanding anything contained in the Standing Orders.".

I have discussed this motion with Mr Humphries. The government was very late in getting in its submission and he is comfortable, I understand, with the committee extending the period for reporting as it has not had time to look at the government's submission.

Question resolved in the affirmative.

CONSIDERATION OF PRIVATE MEMBERS BUSINESS
Suspension of Standing and Temporary Orders

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

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 33, private members business, relating to the Occupational Health and Safety (Amendment) Bill 2000 being called on immediately after the resolution of any question relating to the conclusion of consideration of order of the day No 1, executive business, relating to the Occupational Health and Safety Amendment Bill 2000 (No 2).

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (N0 2)

[COGNATE BILL:

OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 2000]

Debate resumed from 23 May 2000, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Occupational Health and Safety (Amendment) Bill 2000? There being no objection, that course will be followed. I remind members that in debating order of the day No 1 they may also address their remarks to private members business order of the day No 33.

MR BERRY (5.51): Mr Speaker, on 9 May, I received a letter from Mr Smyth in relation to this matter, together with a press release entitled "Minister urges Assembly to support Government's legislation to give the OH&S Commissioner true independence". Attached thereto was a piece of legislation which seemed at first to be a comprehensive range of new provisions which ought to be included in the act because the minister claimed it was in some way flawed.

Subsequent to that, the minister offered a briefing in relation to the matter, and I thank him for that and I thank the officials who came to see me on it. Prior to that, officials had come to see me in relation to progress on the implementation of the bill which provided for an independent statutory officer as Occupational Health and Safety Commissioner for the ACT, and advised me that there were some difficulties with the employment provisions; at least they claimed that there were.

I introduced a motion into this Assembly to repair the matter and I recall informing the Assembly at that time that it was basically a provision which was lifted from the Auditor-General Act to provide for the same employment provisions as has the Auditor-General. Mr Speaker, I had decided on the choice that I was going to make in relation to this matter. You had to have either an arm of government dealing with this matter or an authority that had its origins in scrutiny.

The Auditor-General has set out in his act provisions which enable him to scrutinise the government in relation to financial and other matters. Mr Speaker, that seemed to me to be the ideal model to provide for an independent statutory officer as the Occupational Health and Safety Commissioner.

Mr Speaker, the government—Mr Smyth, in particular, with the speech he gave yesterday—may have misinformed the Assembly. Mr Smyth went to great lengths to say that he was acting in accordance with the coroner's report in relation to the tragic hospital implosion which killed Katie Bender and which discovered, amongst other things, attempted interference by departmental officers in the work conducted by occupational health and safety officers. That prompted me to look at the coroner's report and refresh myself on what he actually said. He said:

> WorkCover should be established as an independent statutory authority completely removed from any departmental or government influence or control.

Mr Smyth has come out with a model which is essentially for an arm of government, as is the case with the Commissioner for Housing, the Public Trustee and the Registrar-General. They are clearly arms of government, Mr Speaker. They are established as corporations sole for the purpose of their operations. I will come back to that a little later, Mr Speaker.

Also, in the debate yesterday, Mr Smyth came in here with a legal advice which he said placed the option that I had put forward last, or words to that effect, to paraphrase him for the purposes of this debate. Mr Speaker, the last time the government came into this place with a legal advice it was a legal advice that they said showed that the union picnic day claim would fail in the Australian Industrial Relations Commission, the ACT Supreme Court and the Federal Court. It did not in any of them. It survived several times. Legal advice is just that—legal advice. It is an attempt to determine what courts might or might not say in relation to a matter, Mr Speaker. It is merely advice prepared at the request of the government.

Let us test the origins of the legal advice which was provided for the eyes of Assembly members. Mr Speaker, that arose because I requested to see the legal advice that was given to the government and a separate set of legal advice was prepared for members' eyes, including mine. I never did get the legal advice which was provided to the government. The government claimed professional privilege and those sorts of things. If they were serious about the open and consultative approach that they often go on about, then they might well have come to see me in relation to the matter.

Mr Speaker, the piece of legislation which has been put forward by the government has to be considered against the background of some amendments which I will foreshadow if the legislation is defeated, which it should be. The appropriate model for the scrutiny of occupational health and safety is a model more closely aligned with that for the Auditor-General, that is, a model which has scrutiny as part of its origins, not a model which has an arm of government as part of its origins.

Mr Speaker, those are the clear distinctions and the clear choices that members have to make. Forget the rhetoric uttered in this place yesterday by Mr Smyth in relation to the

matter. I know that the government—Mr Smyth in particular—is still seething from the defeat of the inappropriate model which the government put before this place once before. Mr Speaker, that is all in the past. I am thinking of the safety of workers in the territory and what will be the best model.

On looking at the government's model and the model I have proposed, which contains the amendments I have circulated, to provide for an employment capacity for the Occupational Health and Safety Commissioner along the lines of the one for the Auditor-General and provides for the Occupational Health and Safety Commissioner to have the same status as a departmental head, the ordinary person in the street might say, "What is the difference?" It goes back to the fundamental point that I raised at the very outset. The choice here is whether you want something which has as its origins an arm of government or something that has its origins based in scrutiny.

I know that the government will deny it, but the government has been desperate to get its scent on this issue from the beginning. People on the other side might say that I am playing the same game. I do not care because it was my idea. It was something that I put in place well before the coroner reported and it was dealt with subsequent to and arising from the coroner's report. I anticipated this problem, and anticipated it correctly, but I could not anticipate exactly what the coroner would say.

It is warming that the government, on the road to Damascus, has been converted all of a sudden to a commitment to having a single commissioner. That is a plus. We need to have a government which has been converted to that idea. Leaving aside the legislative framework, if we do not have the commitment from government to the idea it will not happen effectively and efficiently and workers will miss out. That, in itself, is warming.

Let us look now at how the government approached this matter. I think that its approach has been somewhat fraudulent. This piece of legislation looks as though it is weighty. Certainly, as you wade into it, you think that it is particularly weighty because it goes to all of the provisions which would apply to an Occupational Health and Safety Commissioner. Let us deal with them. Page 2 deals with the commencement of the act, the amendment of an act, the interpretation of a definition and the substitution of a part.

We come then to "Part 2A—Occupational Health and Safety Commissioner". All these provisions look like they are new provisions, all on advice from the minister's department. Proposed section 25A says that there is to be an Occupational Health and Safety Commissioner. That was dealt with in proposed section 25A of the bill I introduced which is now an act of this Assembly. Appointment of the commissioner was dealt with by proposed section 25A and is already part of an act of this Assembly. The term of appointment has been dealt with and is already a part of an act of this Assembly. Proposed section 25C(2) of this bill has already been dealt with in proposed section 25A of my bill.

I am advised that the provision whereby the minister may give the commissioner leave of absence is a belts and braces provision. It could be done without, but it is nice to have it there. I come to the conditions of appointment generally, which the minister mentioned in his speech. Again, he may well have misinformed the Assembly. The bill states:

> The commissioner holds the position on conditions not provided by this Act or another Territory law that are decided by the Executive.

Mr Speaker, that is completely unnecessary because it is provided for in other acts. When the minister comes in here spruiking about the frailties of other legislation, I wish he would take a look at the legislative background to what he is saying. Subsection 10(1) of the Remuneration Tribunal Act deals with inquiries in relation to the holders of certain offices. The list goes from the Chief Justice down to the Community Advocate. Guess what? Paragraph (w), the all-embracing provision, refers to:

> the holder of any other office or appointment that is—
> specified for the purposes of this paragraph; or
> included in a class of offices or appointments specified for the purposes of this paragraph;
> in an instrument given to the tribunal by the Chief Minister.

That provision sets out to cover for the Chief Minister if he or she fails in his or her duty. The provision in this bill is unnecessary because, if the position were to be established by law, the Chief Minister would be obliged to deal with it, as would the Remuneration Tribunal. Proposed section 25F, relating to the ending of the commissioner's appointment, is dealt with in sections 25D and 25E of the act passed by this place. Suspension and removal of the commissioner are dealt with in section 25F.

Moving to the establishment of the corporation sole, the government argues that its provision is necessary and that it has proof for its necessity in the way that it operates in other arms of government. Those arms of government are the Housing Assistance Act, which established the Commissioner for Housing, the Public Trustee Act, which established the Public Trustee, and the Registrar-General Act, which established the Registrar General—all arms of government which provide a commissioner as a corporation sole.

What does the Occupational Health and Safety Amendment Bill that the government has provided tell us? It tells us that the Occupational Health and Safety Commissioner is a corporation sole under the name of the Occupational Health and Safety Commissioner for the Australian Capital Territory and that the corporation is a body corporate, has a seal and may sue and be sued in its corporate name. The important one to remember is that it may sue and be sued in its corporate name.

The bill goes on to say that the corporation sole may enter into contracts and—here's a doozey—acquire, hold, dispose of, and deal with property. Why would an Occupational Health and Safety Commissioner have to acquire, hold, dispose of, and deal with property? It beats me. I can understand why the Commissioner for Housing would. It makes sense for the Commissioner for Housing to acquire, hold, dispose of, and deal with property. It may make sense for the Registrar-General because the government buys, holds and disposes of property from time to time. It makes some sense for the Public Trustee to have these sorts of provisions. But I cannot see why it should be a provision that applies to the commissioner.

The bill goes on to talk about the commissioner's functions. Guess what? They are covered by the act already provided by this place. Ministerial directions are covered by the act which has been passed by this place. The bill provides that the commissioner's

office consists of the commissioner and the office's staff. That, as they say, is to state the bleeding obvious. The bill provides that the staff of the commissioner's office must be employed under the Public Sector Management Act. That is covered by section 25I and an amendment which has already been circulated in this place. The bill provides that the commissioner may, in writing, delegate to a member of the staff of the commissioner's office any of the commissioner's powers other than the commissioner's powers under proposed section 83. I am informed that that is covered by section 25J.

Mr Speaker, the subsequent provisions are consequential and relate to drafting style and need no further comment from me. The Statute Law Amendment Act provision repairs a typo in the legislation originally brought forward in this place. This bill seeks to repeal that. There are a couple of other consequential amendments which are relatively unimportant in the scheme of things.

Mr Speaker, did you know that this bill seeks to amend a law that does not exist? You did not know that, did you? Let us look at that. If you turn to page 6 of the bill you will see a reference to amendment of the Statute Law Amendment Act 2000. It reads:

> Amendment 3.16 in Schedule 3 of the Statute Law Amendment Act 2000 is omitted.

It is not a law yet. It is a bill before this place, but it has not been passed. You cannot pass this piece of legislation with that in it because it means nothing.

Let me turn to the amendments which I foreshadow. These amendments put in place a regime which parallels the provisions for the Auditor-General. I have explained why I introduced an occupational health and safety bill which provided the commissioner with powers to employ. For the record, I will quote clause 4 of the bill which has been tabled in this place:

> Section 25I is amended by omitting subsection (3) and substituting the following section:
>
> (3) The commissioner has all the powers of a chief executive in relation to staff assisting him or her as if the staff were employed in a department under the control of the commissioner.

That ensures that there is complete and utter independence in the employment of staff.

Mr Smyth did make mention yesterday of a further amendment which was circulated yesterday in relation to this matter. By the way, these amendments were not drafted in my office; they were drafted by the law officers and have their backing. They are not lightweight amendments that somebody just wrote upon the back of an envelope.

The second amendment which I circulated yesterday deals with the application of the Financial Management Act to the commissioner as if the commissioner was a departmental secretary and gives him all of the necessary provisions of the Financial Management Act, including those relating to the provision of annual reports and budgets. There would be a separate line in the budget for this department, in much the same way as applies to the Auditor-General. If the minister is committed to independence, this is the most independent model. It creates a new department for the Occupational Health

and Safety Commissioner. *(Extension of time granted.)* It creates a new department in much the same was as is provided to the Auditor-General, which goes back to the general question of what you want. Do you want a model which is similar to other arms of government or do you want a model which has drawn its origins from the provisions for the Auditor-General?

The amendment on page 2 speaks for itself—"a reference in those provisions to a department includes a reference to the commissioner and the staff assisting the commissioner" and "a reference in those provisions to the responsible chief executive includes a reference to the commissioner". My advice is that the Occupational Health and Safety Commissioner could operate reasonably independently within the Department of Urban Services, or wherever he or she is placed, with the provisions which were initially introduced; but, given the newborn enthusiasm of the government to a stronger sense of independence, I had a look at the Auditor-General Act. This is about scrutiny, not about being an arm of government involving commercial activities, and I thought that the appropriate model to draw from was the one for the Auditor-General. There is no better model of scrutiny which one could rely on. That is why I chose it.

Mr Smyth criticised my legislation because there has had to be two amendments. I can explain that. The bill was introduced well before the coroner reported and nobody could anticipate the exact words of the coroner and nobody—

Mr Smyth: No, these are technical things. You just got it wrong. It could not operate. It is just gloss, Wayne.

MR BERRY: What did you say?

Mr Smyth: It is just gloss.

MR BERRY: What have I lost?

Mr Smyth: No, gloss, you are just glossing over the fact that you have got it wrong twice.

MR BERRY: What is that? Mr Speaker, these amendments complete the picture.

I go back to the choice as to origins in an arm of government or origins in a scrutiny function. At the end of the day, that is the issue that will swing members' minds in relation to the matter and they have to make a choice about that issue. They also have to consider the approach that the government has been taking in relation to this matter from the beginning. It has always been one of catch-up politics.

This is about a government that was severely embarrassed. Leaving aside all of the evidence that was given in the coronial inquiry and the significant embarrassment that that caused the government, they were significantly embarrassed when legislation had to be changed in the territory in order that the Dangerous Goods Act and the Occupational Health and Safety Act would have some relevance after the inquiry. Thankfully, members supported and endorsed the move that I took in this place, which was about making sure that those pieces of legislation had application to the territory.

I am well known as having a strong commitment to occupational health and safety and the independence of the Occupational Health and Safety Commissioner. My judgment on this issue is fairly well recognised and, if I can be boastful, I am accepted as something of an authority on these issues.

I need to mention another couple of issues in relation to this bill to show that it is flawed. If this bill is passed, in my opinion it will have to be fixed up. I dare say that the government will have another legal opinion which says that it does not have to be. Let me refer to the Housing Assistance Act and the provision of the government's proposed changes to the Occupational Health and Safety Act which talks about the Occupational Health and Safety Commissioner being able to sue and being sued in his corporate name. Members will recall that provision.

Mr Minister, did you know that there is an additional provision in the act in relation to the Commissioner for Housing concerning the protection and liability of the commissioner? You should refer to it; it is very interesting. Division 3, "Protection and liability of Commissioner", section 11 reads:

> (1) A person who holds, or has held, the office of Commissioner is not liable, personally, to an action or other proceeding for or in relation to an act done or omitted to be done in good faith in performance or purported performance of any function, or in the exercise or purported exercise of any power or authority conferred on the person as the holder of that office.
>
> (2) Where, by an act or omission of the Commissioner or another person acting or purporting to act in good faith for the Commissioner, a person sustains a loss or injury that would have entitled that person to a remedy in respect of the loss or injury if the act or omission were an act or omission of a natural person—
>
> (a) the person sustaining the loss or injury is entitled to the same remedy against the Commissioner in the corporate capacity of the Commissioner as the person would have been entitled to against a natural person; and—

That is all pretty straightforward, but then we come to the punchline, which is not provided for in the legislation put forward by this minister. I do not believe that this legislation can be passed without this provision. Listen to this one:

> (b) the liability of the Commissioner shall be discharged by the Territory.

There is no provision for the protection and liability of the commissioner within the legislation, as far as I can make out. This legislation cannot pass without that provision in it, in my view. If members are of a mind to pass this legislation this evening or are supportive of it, they ought to adjourn its passage until such time as those provisions can be assessed in terms of their appropriateness for inclusion in this bill.

Let me also point out that the protection and liability clause that is provided for the Commissioner for Housing is also provided for the liability of the Public Trustee. Similarly, it is provided for the liability of the Registrar-General and other officers. But no similar protection is provided for the new Occupational Health and Safety Commissioner.

That sort of protection would be guaranteed to a departmental head as it applies to all departmental heads. The proposal which will be put forward when this bill fails, which it should, is for the provision of a departmental head, which was suggested by the coroner. He said:

> WorkCover should be established an independent statutory authority completely removed from any departmental or government influence or control.

We have in front of us an opportunity to set the pace for the future of occupational health and safety in the Australian Capital Territory. We have in front of us the choice of adopting a model which is based on an arm of government or of adopting something which is based on scrutiny, that is, the model for the Auditor-General.

When the debate started years ago about the independence of the Occupational Health and Safety Commissioner, it started on a downer. It started because of interference on a work site by a minister–not one of the present ministers, I concede; a minister of a former government. In many other places around the country that would have led to the sacking of the minister, but not here because that was not the way this place operated at the time.

Subsequent to that, we had the tragic hospital implosion and the criticism of various people in evidence at the coronial inquiry. The early signs were that something had to be done. I took the decision and the Labor Party took the decision that we had to move quickly, principally because the office of the Occupational Health and Safety Commissioner had to be protected in the interests, as I have said time and time again, of the safety of workers.

I do not know how many members opposite have had the experience of witnessing a worker or family member coming home badly injured as a result of a workplace injury. *(Further extension of time granted.)* I suspect all of us have suffered some sort of injury at work. Happily for some of us it has been small. Unhappily, it has not been so small for others. At all times in the course of our convalescence we would have wondered why we suffered that sort of injury and how we might well have escaped it in the first place. The only way that you can escape these sorts of things is if you are covered by an authority which is managed by a government sympathetic to workplace safety.

One of our obligations as Assembly members and more so as members of a government is to regulate our society to ensure that our community is kept safe. Our community deserves the protection of government. It has not got it to this point in a complete and utter way because of the threat to the independence of the commissioner which was identified by the coroner. When Labor first came to office in 1989 it introduced occupational health and safety legislation. It was, I think, the first piece of legislation to pass through this place. We retain that as an enduring commitment.

We do not profess it to be our own idea. We have done it with the support of other members of this place. To one degree or another the conservatives opposite have supported us from time to time. To this point, I would say that there has been an absence of commitment to that model. If anything good has come out of the dreadful Canberra

Hospital implosion, it has turned out to be the jolt to government about ensuring that this office is maintained in the most independent way possible.

The model that I have foreshadowed, in my view, ensures that that will occur. It is a model that will guarantee the future of the Occupational Health and Safety Commissioner's independence and will ensure, one hopes, that tragedies such as the one which occurred with the Canberra Hospital are averted by preventing the political influence which is perceived to have been applied to people in this high office.

I am happy to leave it there and come back with the matter after the suspension of the sitting. I am sure that other people want to make a contribution to the debate as well, so I will leave it at that point, Mr Speaker.

Sitting suspended from 6.27 to 8.00 pm

MS TUCKER (8.00): I have been concerned about the incredible amount of work we have had to put into this legislation. It seems that Mr Berry and Mr Smyth could have got together and sorted it out. Problems emerged with the act passed last year, and the government has come forward with an alternative structure. Mr Berry has effectively proposed two amendments to his act. Both strategies seem to address the problem. I am sorry that the two gentlemen concerned did not work out the best way to do this. It appears that both camps want to provide for an independently resourced and managed office which would report to the minister and the Assembly.

Do both structures deliver a transparent process where any directions made by the minister are laid before the Assembly? Yes. Given this avowed commitment from both sides of the Assembly for the establishment of an independently resourced Occupational Health and Safety Commissioner, it has been frustrating and time-consuming exercise examining these bills in detail in order to determine the differences and so determine our course.

The argument, it appears, is one of structures. The models they propose have a different history and that history may affect the structure, but it is a fine line. The government's corporation sole has its origins in departmental functions and is used for the Commissioner for Housing and the Public Trustee. Mr Berry's legislation last year was modelled on that used for the Discrimination Commissioner and that used for the Commissioner for the Environment. They were found to have weaknesses when it came to employing staff. Hence, with regard to independence, Mr Berry has looked to the Auditor-General Act, and his amendments address the issue by deeming the commissioner to have the powers of a chief executive of a department, consistent with the Financial Management Act and Public Sector Management Act. The origins lie in scrutiny. On the other hand, the minister's corporation sole has its origins in departmental functions being modelled on the Housing Commissioner, the Registrar-General and the Public Trustee. This addresses the issue of functionality, although the particular instances I have mentioned are more focused on service delivery than audit and appraisal.

The corporation sole includes an interesting provision for the purchase and sale of property which could allow for the occupational health and safety commission delivering a raft of efficiencies and perhaps, through new activities, improving its income stream in

ways we would not expect now. I am not suggesting this is the intention of government, but we have seen that things do change over time. It is for that reason mainly that I am not drawn to the minister's model.

I note also the oversight in indemnifying the commissioner individually against liability in relation to the office. It may be that such indemnity is not an issue. However, such protection is included in the acts regarding the Housing Commissioner, the Public Trustee and the Registrar-General, as Mr Berry has pointed out. It may not be a big issue, but it seems to me that we are dealing with fine distinctions. It is about trust in this instance. We want to have trust in the commission, and we want to know that the independence of the commissioner is a focus of that office. A lot has been said in the last few years about instances where occupational health and safety inspectors have felt a long way short of that independence.

Those are the matters of substance. Mr Berry has demonstrated a commitment to occupational health and safety over a number of years, and I respect him for that. I believe both bills present a workable structure. I will support Mr Berry's bill, on the basis that I am confident that the independence of the Occupational Health and Safety Commissioner and the scrutiny of the commission's performance lie at the heart of the legislation.

MR STANHOPE (Leader of the Opposition) (8.06): I will speak only briefly. I wish to reiterate the points that have been made by my colleague Mr Berry and by Ms Tucker. It is important that we acknowledge the history of the process that we are engaged in here. Following the inquiry into the implosion at the Canberra Hospital, the coroner made a number of comments in relation to the operations of WorkCover. As a result of the exhaustive investigation of this matter by the coroner, issues around the operations and the independence of WorkCover were raised and became issues of significant moment.

On reading the coroner's report, I believe a significant number of interesting issues remain in relation to some of the findings of the coroner about the way WorkCover operated throughout that process. I do not want to revisit issues around the hospital implosion at this time. I ask that we comment and focus on some of the operational shortcomings identified by the coroner in his reporting on WorkCover.

The coroner's report contained detailed comments in relation to the overall responsibility for the actions of WorkCover, the extent to which WorkCover inspectors were able to pursue their obligations and their responsibilities on the hospital site, the degree of control which the head of WorkCover had, the extent to which WorkCover was independent from the head of the department and from the head of the Chief Minister's Department, which was regarded at the time as the client department.

There was a very interesting exchange of evidence between Moiya Ford, Jocelyn Plovits, Annabelle Pegrum and John Walker on those points. As a result of that my colleague Mr Berry was moved to pursue this matter to ensure that the coroner's recommendation that WorkCover should be established as an independent statutory authority completely removed from any departmental or government influence or control was implemented. The legislation which Mr Berry initially delivered and which he has refined is an attempt to respond directly to the coroner's report on this matter.

As Ms Tucker has just said, Mr Berry put an awful lot of effort into his legislation. He used as a model for his amendments provisions in the Auditor-General's legislation which we think are quite appropriate and are a good model. I commend Mr Berry's bill to the members of the Assembly.

MR SMYTH (Minister for Urban Services) (8.10), in reply: Mr Speaker, I will close the debate on my bill, then we will move on to Mr Berry's bill if necessary. I would like to pass comment on something Mr Berry said towards the end of his speech. He said that he was not afraid to boast that he had a greater commitment to this issue than anybody else in this place. He is probably right. I do not think any of us doubt that Wayne Berry is passionate about occupational health and safety. He was kind enough to go on to say that the original legislation which was brought into this place in 1989 was passed with the support of "the conservatives opposite", as he called us, and therefore he saw some commitment from this side of the house as well.

This is not about ego; it is not about who wins; it is not about who got there first. I was given a directive by the Assembly to put in place occupational health and safety legislation that would protect the rights of workers. I had two overriders on that. The first was that I had to meet the needs of the Assembly. The second was that I had to satisfy the recommendations of the coroner. I thank Mr Berry for saying that he did not doubt our commitment to occupational health and safety. Although we chose different paths to get to where we are today, the intent of both pieces of legislation was to achieve the same things.

Mr Berry saw it as amendments. We saw it as setting up a statutory authority under its own act. I thank Ms Tucker for acknowledging that both of us are trying to make the legislation work. I genuinely wish to make it work. That we have chosen a different path and that the Assembly initially selected Mr Berry's path does not mean that I will not make the legislation work as best I can.

That is why I have had my public servants working on it. That is why the officers from the department have attempted to make this work. I would publicly praise the officer who has been working on this, Mr Brad Page. Brad has given briefings and advice to many members and has a commitment to making this legislation work because it is important.

We have two options. Option one, as listed in the advice from the Government Solicitor, is to create the corporation sole. Option 5 is to accept Mr Berry's amendments to the Occupational Health and Safety Act. It is important that we achieve the best model for those we seek to protect. Mr Berry raised some difficulties with option one. I have some difficulties with option 5, and it is important that we look at those difficulties.

Mr Berry raised the issue of indemnity and liability. I have checked with the PCO. The commissioner ceases to exist as a person; he becomes a corporation sole. As such, he cannot be sued as an individual. That is the advice of the PCO. I hasten to add that he will still have a soul. It just happens that it will be of a different kind. Indemnity is not an issue. It is covered.

Mr Berry made reference to amendment of the Statute Law Amendment Bill 2000. When we drafted my bill, it was expected that the Statute Law Amendment Bill 2000 would

have been passed. The amending bill was brought into this place on 30 March this year. My bill came in on 9 May. For those who have not checked or who are unaware, the Statute Law Amendment Bill 2000 makes technical and housekeeping amendments to the laws of the territory to ensure that the ACT statute book is of the highest standard. The bill does so by amending and repealing acts and regulations for statute law revision purposes only.

My bill would omit "Authority" and substitute "Commissioner" and would commence immediately after commencement of section 10 of the Occupational Health and Safety (Amendment) Act (No 2) 1999. Unfortunately, we have got a little bit out of sync because of the way these bills have been done. The provision was drafted by PCO in anticipation of the Statute Law Amendment Bill being passed before the Occupational Health and Safety Amendment Bill came into operation. It is a minor oversight. This bill is something that would have to happen anyway. If it passes, it will have no effect until the passage of the Statute Law Amendment Bill, which would also need a minor amendment to make it work. There is nothing sinister or untoward in that.

Mr Berry said that the legal advice I have tabled is not the advice that was initially given to the cabinet. That is because the initial advice that we sought was cabinet-in-confidence. This was explained to members. Mr Page got the Government Solicitor to give him a summary of the various options and to answer the relevant questions. Mr Berry was informed of that. Again, there is nothing sinister in that. The other document is cabinet-in-confidence, and we respect that confidentiality.

There was some query about the ability to own real estate. Ms Tucker raised that. Under English law a corporation sole was initially set up to protect church property. A bishop, for instance, would come into control of the property belonging to the church in his diocese and then it could be passed on in perpetual succession. If people are worried about that provision being in this legislation, it is in other acts. It can go if people wish to delete it by amendment. We have to appropriate money, so there is control over what the commissioner spends. The commissioner has to submit a business plan, so we will know what he is up to. There is nothing sinister or untoward in that. It is part of the historic origin of making a corporation sole. It gives the corporation the same rights and effects as a person. It is a historical thing more than anything else.

What does our bill seek to do? I am mindful of what the Assembly told me in December last year, and we have sought to achieve that. The Assembly did not want the large option that we put together. We thought it was worth having an independent statutory authority. The Assembly said, "No. Go the one-person version." That is fine. I am happy to implement that, but I want to implement something that works. We had the original amendments; we had a second set of amendments; and now we have a third set of amendments. I am not confident that, were we to pass Mr Berry's amendments tonight, we would achieve what all of us here in the Assembly want.

We would not meet what the coroner directed. He directed that we have an independent statutory authority to look after the rights of workers. My bill does meet that. That is the advice from the same source that found the errors which exist in Mr Berry's legislation and which he has brought forward amendments to attempt to rectify. It is confirmed, I believe, by the Government Solicitor.

Mr Berry said he had amendments that had the backing of the law office. He said they were not drawn up on the back of an envelope. He cannot say that one arm of the government has given him good advice he believes but then say the advice from the other arm of government is a bit dodgy. These people are professionals. It is legal advice, and of course it is challengeable in the courts. This is done in good faith. We have given briefings. We have endeavoured to make this work.

The bill we put forward does several things. It gives the commissioner an organisation. The bill creates the commissioner as both an individual and a corporation sole. In other words, the commissioner is a single-person authority. I think that was the intent of what the Assembly passed last year. No boards of management are involved. No-one other than a minister using the existing clearly defined role of accountability to the Assembly under the act sits above the commissioner. That is what the Assembly wanted last year. This structure gives the commissioner real management independence.

Clause 25H of the bill provides that the corporation has perpetual succession, may sue and be sued, has all the privileges and immunities of the territory and has all the powers of an individual. Importantly, it also declares the commissioner to be a territory instrumentality for the Public Sector Management Act. I would draw members' attention to the note after clause 25H, which says that the commissioner is a territory authority for the Financial Management Act 1996. This places beyond all doubt that the commissioner will have all the necessary powers under the Financial Management Act and the Public Sector Management Act to conduct the functions allocated to the commissioner.

Under our arrangements the commissioner will not be beholden to a chief executive for resources, and no chief executive will be accountable for the management actions of the commissioner. The commissioner will not have a board of management to deal with or through. All the accountability and responsibility chains are clear and are appropriate.

Mr Berry has an amendment that would put into effect option 5. The amendment would insert a new section 25K which would have the effect of applying parts 2 to 5 of the Financial Management Act to the commissioner, and deeming the commissioner and staff to be a department and deeming the commissioner to be a chief executive for the purpose of the act. It would enable Mr Berry's staffing provisions, the flaw in his original legislation, to operate properly.

By incorporating this amendment, the Assembly would provide a legislative structure that would enable the commissioner to have an independent resource management power. In the government's view, this is not, however, the best way to do it. The Government Solicitor ranked it as the least preferred option to make this whole thing work as effectively as everybody in this place wants it to work. I read the Government Solicitor's advice on option 5, Mr Berry's option:

> To put forward amendments to the OH&S Act to deem the application of the FMA to the Commissioner. This would require careful consideration in order to ensure that the various pieces of legislation—FMA, PSMA and the OH&S Act—operate harmoniously together.

Are we confident that this is what Mr Berry's option will do?

Mr Berry: I am sure we are. We have professional legal advice.

MR SMYTH: I have professional legal advice that rates it as the lowest ranked option. Are you confident it does what you want? Have you considered whether all the legislation operates harmoniously? The advice from public servants, the Government Solicitor and Parliamentary Counsel, the people who have helped you get to where you are, is that they are not sure that it does. Because this is now the third set of amendments, I am not sure we can be confident on this very important point.

The advice to my department is that we do not know. We are not saying that it is not or that it cannot. We just do not know, because it is not an easy question to answer. It will take a long time to work through all these various pieces of legislation to make sure there are no conflicts. There may still be more work to do if we go with option 5. We have not pursued that path, because it is not the preferred course of action, in our view.

My option is much cleaner and it does not have that doubt. The Government Solicitor's office ranked options for what we could do to amend the act to make it work. The advice states:

> The options, in descending order of degree of independence, are:
>
> 1. The most appropriate option is the establishment, by statute, of a Territory authority. This would require amendments to the OH&S Act. Part 8 of the FMA would make the chief executive of a Territory authority responsible for the financial management of the authority.

It goes on to say,

> I note that the original *Workplace Authority Bill 1999* proposed such a statutory authority comprising of 7 members. The current proposal contained in *Occupational Health and Safety Amendment Bill 2000 (No. 2)* is to create a single-member statutory authority. I have previously advised of the existence, in the ACT, of a number of such statutory authorities. The most significant of all is the Commissioner for Housing …

It then goes through three other options, until we get to the amendments that Mr Berry will move.

Mr Berry: That does not include the second amendment.

MR SMYTH: This is based on these amendments. *(Extension of time granted.)* The advice says:

> To put forward amendments to the OH&S Act to deem the application of the FMA to the Commissioner. This would require careful consideration in order to ensure that the various pieces of legislation—FMA, PSMA and the OH&S Act—operate harmoniously together.

They do, and I will tell you why: the amendments that Parliamentary Counsel gave you are the amendments they prepared for me. They are exactly the same. That is the option to amend your bill. I have not circulated mine. There is no need. Yours are there. The

amendments we have in place have exactly the same number except one set has "WB" on them and one has "G" on them. They were prepared for me before you requested them. I can give you the dates if you want them. They are the same amendments. It is the same advice the government was given. There were five options.

This is about protecting the workers. If we are genuine, let us get above the ego and taking credit. You can have all the credit—I do not care. I am grateful for the opportunity to acknowledge that you have a passion about this. That is great. Put the passion aside and create something better. Make this bill work. We have the opportunity to make this bill work better for the workers.

Mr Berry: By accepting my amendments.

MR SMYTH: I know about your amendments. I had my own amendments, exactly the same as yours, a week and a bit before you did. I asked the Government Solicitor to look at the options. The best option is to create the corporation sole. The best option is to pass the government's bill tonight because it is the best, cleanest, neatest way to guarantee independence and integrity. It will achieve exactly what Mr Berry wants to achieve. It will achieve the will of the Assembly to protect workers. It will do it in a way different to what we proposed initially, but that is okay.

The will of the Assembly was not to follow the statutory authority model that I put forward in the first place. It is quite clear that the Assembly wants a model that works. It is quite clear that the coroner said we should have an independent statutory authority. It is quite clear that the government's bill should be supported tonight because it will achieve that. It will achieve everything Mr Berry wants. Full credit and full power to him on this issue. He got there first. That is okay. But what he has put forward is not as effective as it could be. The government's bill will make the legislation truly effective. It will protect workers' rights as best as we can through this Assembly, and it will be more effective long term. I would ask for support for the government's bill. It will build on what Mr Berry started and do the job better.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes, 7	Noes, 9
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Osborne
Mr Moore	Mr Quinlan
Mr Smyth	Mr Rugendyke
Mr Stefaniak	Mr Stanhope
	Ms Tucker
	Mr Wood

Question so resolved in the negative.

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000

Debate resumed from 24 May 2000, on motion by **Mr Berry**:

That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR BERRY (8.33): Mr Speaker, I seek leave to move the two amendments circulated in my name together.

Leave granted.

MR BERRY: I move:

Clause 2, page 1, omit the clause, substitute the following clause:
"**2 Commencement**
This Act commences immediately after the commencement of section 10 of the *Occupational Health and Safety (Amendment) Act (No. 2) 1999*.
Note The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967,* s 10B).".
New clause –
Page 1, add the following new clause to the Bill:
"**5 Insertion**
After section 25J the following section is inserted:
'**25K Application of Financial Management Act 1996**
Unless the contrary intention appears, the provisions of Parts 2 to 5 of the *Financial Management Act 1996* apply to the commissioner as if—
(a) a reference in those provisions to a department included a reference to the commissioner and the staff assisting the commissioner; and
(b) a reference in those provisions to the responsible chief executive included a reference to the commissioner.'.".

Mr Speaker, I do not need to speak any further to these matters. They explained themselves in the previous debate in which they were foreshadowed and amply described. It is for the Assembly to decide.

MR SMYTH (Minister for Urban Services) (8.34): Mr Speaker, the government has no problem with these amendments. They are in fact exactly the same as the amendments we had prepared for ourselves in the event of our bill going down. The government is

still convinced that we had a better model to meet all the needs of both the coroner and the Assembly. However, we support these amendments and we will see how they work out.

Amendments agreed to.

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

Bill, as amended, agreed to.

TERRITORY SUPERANNUATION PROVISION PROTECTION BILL 2000

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

> That this bill be agreed to in principle.

MR QUINLAN (8.35): Mr Speaker, we do not have a great deal of difficulty with this bill. So much of it is common sense that was included in a report of a committee I chaired more than a year ago. We can say that the government is catching up. They are only about a year or so behind.

I understand that Mr Humphries has amendments to the bill which facilitate the payment of capital repatriation from ACTEW into the fund, and maybe even some other operating money into the fund, if we ever get to that great day when we are putting more than the annual appropriation in rather than the "very substantial" $5 million for next year. But, still, $5 million is a start. Hitherto, the Carnell government has put zip out of operations into the fund to support the superannuation liability. It is good that the good times are here and that we can at least start on it.

I notice that the government has an eight-year plan to wipe off the deficit between the provision and the supporting fund. It is an eight-year plan in a budget that has lots of those extended many-year plans, so we get big numbers instead of modest numbers. If you added up all the big figures out of this year's budget, you would certainly have an expenditure way above the expenditure line.

The opposition supports the bill, and the opposition will be supporting Mr Humphries' amendments.

MS TUCKER (8.37): This bill establishes a separate bank account into which money appropriated by the government to cover the territory's superannuation liability will be placed. Money held in that account can be invested in bank deposits, government securities or other prescribed investments but will only be able to be expended for superannuation purposes. The intent of the legislation is to ensure that money set aside for superannuation can only be used for that purpose and not spent by future governments for some other reason.

This bill is consistent with the recommendation of the Select Committee on the Territory's Superannuation Commitments, which reported at the beginning of 1999 and of which I was a member. The committee pointed out that funds set aside to cover

superannuation liabilities needed to be held for a long time, potentially for the whole working life of a person employed by the ACT government. The committee was concerned that the greater the amount held in the superannuation fund, the greater the temptation for future governments to draw on the fund to meet short-term financial demands. It is therefore important to ensure that funds dedicated to meet long-term liabilities are still available when the time comes for those liabilities to be paid out.

I am happy to support this bill. I will have one minor amendment, which I will talk about in the detail stage.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.39), in reply: I welcome the support of members for this important provision to ensure that the territory's superannuation provisions store, if you like, is guaranteed and over time built up. The government has made it very clear that we believe that the temptation to use accumulated superannuation for a variety of things is very great for governments that have a need for cash and see considerable amounts of cash building up in various committed accounts or funds.

Yesterday at the National Press Club someone from the *Canberra Times* asked a question of Mrs Carnell about the dangers of superannuation funds being used to fund WA Inc. types of proposals. It is true that governments short of money look covetously at these huge amounts of money built up in superannuation accounts. Whatever the weakness of such governments in such circumstances, it should not be the case that as a community we allow that investment in the necessary obligations, liabilities, of our community into the future to be squandered. Therefore, the legislation before the house protects superannuation paid into that account over the years.

As members know, in the course of this financial year, we have injected, $300 million into the superannuation provision account through the budget for this financial year, and we have reinforced the managed nature of this exercise by announcing the appointment of a new Finance and Investment Advisory Board to, among other things, supervise the investment program of the superannuation fund. The 2000-01 budget also produces other measures to protect the ACT's future capacity to meet superannuation liabilities.

The additional $120 million over the next four years from the recurrent budget adds further to that total. The amount, with the $300 million added to it for this financial year, brings the total of our superannuation account to about $700 million, and there will be more to add to that if an equalisation payment is made in respect of the joint venture between ACTEW and AGL. That will mean a significant step towards protecting the ACT's capacity to meet superannuation.

As Mr Quinlan has pointed out, the Select Committee on the Territory's Superannuation Commitments recommended this course of action. I see that Mr Quinlan claims credit for the idea. Whatever the parentage of this idea, it is clear that it does need to happen. We can debate who has the greater temptation to want to raid the superannuation account.

Ms Carnell: Victorian Labor has shown—

MR HUMPHRIES: Mrs Carnell, we should not make reference to the Victorian Labor government or the Western Australian Labor government. That would be churlish. We

should ignore those examples of ham-fisted, greedy-fingered governments of the past and assume that none in the ACT would ever succumb to that temptation. But if they ever do, this legislation will be there to make sure that the ACT's superannuation is guaranteed.

I thank members for their support for this bill. I believe that the returns on the superannuation account will be enough to keep that fund growing steadily. Who knows, if our investments policies are wise enough over the next generation or so, perhaps a future government will say to the territory, "We really should do something with this $600 billion that has built up in the superannuation account. How can we spend it, guys?" Of course, in those days it will be guys and girls again, rather than mainly guys.

Ms Carnell: Yes, more girls. Those opposite might actually have a woman.

MR HUMPHRIES: They might even have a woman. That is true. In those days I am sure the territory will enjoy being able to spend the dividends of the hard work that was put in in earlier days. I thank members for their support for this bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 6, by leave, taken together and agreed to.

Clause 7.

MR QUINLAN (8.45): I move:

> Page 2, line 26, subclause (1), insert "assets and" before "liabilities".

The amendment is fairly self-evident. The drafting was marginally deficient. As the superannuation investment grows, we need to manage that as well. The amendment is just a little bit of tidying up.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.46): Mr Speaker, the government does not believe, on the advice we have received, that it is strictly necessary to expand the wording of clause 7, which refers at the moment to the management of the superannuation liabilities of the territory.

Mr Quinlan: Can I have a copy of that advice?

MR HUMPHRIES: You may. Yes, I would be happy to give it to you, Mr Quinlan. My view is that the word "management" would include the management, investment and importing of any assets set aside to meet superannuation liabilities. Read in the context of the rest of the bill, there is no doubt that this is the intention. However, in the interests of cooperation, I am very happy to indicate that the government will not oppose this amendment.

Amendment agreed to.

Clause 7, as amended, agreed to.

Clauses 8 to 10, by leave, taken together and agreed to.

Clauses 11 and 12, by leave, taken together.

MS TUCKER (8.47): I move:

> Clause 11, page 4, line 10, after subclause (4), insert the following new subclause:
> "**(4A)** A fee charged by a department under subsection (4) may not be more than the costs and expenses incurred by the department in making or managing the investment.".
> Clause 12, page 4, line 26, add the following new subclause:
> "**(4)** A fee charged by a department under subsection (3) may not be more than the costs and expenses incurred by the department in making or managing the investment.".

I am putting forward these amendment to fix up what I believe is a loophole in the act regarding the charging of fees by a government department for the management of an investment of money from a superannuation banking account. At present the act says that the department may deduct a management fee from the interest received on the investment. I am concerned that this opens up the potential for a department to charge an exorbitant management fee, as a way of making a profit on the investment of superannuation funds, and to redirect interest money that should rightfully be added to the superannuation account.

It should be remembered that it is not just the superannuation appropriations that need to be protected. The interest earned on the investment of such appropriations also needs to be protected. Obviously, the more interest that can be obtained on the superannuation fund, the less the money that has to be appropriated to meet a given superannuation liability. We should not be squandering this interest on high management fees. The amendments simply state that the management fee charged by the department cannot be more than the actual costs and expenses incurred by the department in managing the investment.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.48): Mr Speaker, I indicate that the government supports the amendments moved by Ms Tucker. I note that in the circulated amendment proposed new subclause 4A referred to subsection (3) when it should have referred to subsection (4). Ms Tucker has fixed up that issue.

The Central Financing Unit is a department for the purposes of the Financial Management Act. Subclauses 11(4) and 12(3) of the bill reflect the current practice for investments managed by the Central Financing Unit. Subclauses 11(4) and 12(3) allow for the deduction of fees from the earnings of the invested superannuation moneys. The proposed new subclauses will cap the fees at the level of the costs incurred by the CFU. That is a sensible arrangement, Mr Speaker, and I have no problem with that. I support the amendments.

MR QUINLAN (8.49): Mr Speaker, we will support these amendments. We came to the same conclusion when we read this part of the bill. In fact, we are not sure that we should have permitted any fees at all. Given that the actuarial calculations may not have included them in the first place, it might be a minor dilution. But we are assured that at least some of the management charges are factored into the actuarial calculations, and we are happy to support these amendments. This is one item that future Assemblies will have to watch to make sure that there is not any siphoning from the fund against the spirit of the act.

Amendments agreed to.

Clauses 11 and 12, as amended, agreed to.

Clause 13 agreed to.

Proposed new clause 13A.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.50): I move:

> Page 4, line 35:
> "**13A Additional provisions for superannuation**
> **(1)** Despite section 6 of the Financial Management Act, the Treasurer may, if the Treasurer considers it appropriate to do so, authorise payment of a stated amount of public money of the Territory that is not required for non-superannuation purposes into a superannuation banking account.
> **(2)** An authorisation under subsection (1) is a disallowable instrument.
> **(3)** An authorisation under subsection (1) takes effect—
> (a) on the day after the last day when it could have been disallowed under section 6 of the *Subordinate Laws Act 1989*; or
> (b) on a later day stated in the authorisation;
> unless the authorisation is disallowed under section 6 of that Act.
> **(4)** In this section:
> ***non-superannuation purposes*** means purposes other than meeting, or providing for, present or future unfunded liabilities of the Territory, Territory authorities or Territory owned corporations for superannuation benefits for persons mentioned in paragraph 9 (a) or (b).".

I present an explanatory memorandum for this and the next amendment, Mr Speaker.

This amendment allows the government to provide extra funding to the superannuation account in the event of surplus funds becoming available outside the context of the budget. Obviously, the best example of that is the proposed joint venture between ACTEW and AGL. That would produce, potentially, a large amount of money for an equalisation payment. Without an appropriation at the present time, it is not possible to pay that money into the superannuation account, but clearly it should be possible to do that.

This is a standing provision that requires the Treasurer to table a disallowable instrument for payments to the superannuation fund above the appropriated amount and allows full

Assembly scrutiny of any proposed appropriation to the fund. It gives effect to the government's commitment to ensure that money set aside for superannuation can only be used for that purpose.

The second amendment, which I will move in a moment, provides a definition of superannuation appropriation.

Amendment agreed to.

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

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

> Dictionary, page 9, line 11, definition of ***superannuation appropriation***, omit the definition, substitute the following definition:
>
> "***superannuation appropriation*** means an appropriation to the superannuation department declared by the Act by which it is made to be for superannuation and includes—
>
> (a) an appropriation made before the commencement of this Act to—
>
> (i) the department known as the ACT Superannuation Provision Unit; or
>
> (ii) the department known as the ACT Superannuation and Insurance Provision Unit; and
>
> (b) a payment under an authorisation under section 13A.".

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

Bill, as amended, agreed to.

SUBSIDIES (LIQUOR AND DIESEL) REPEAL BILL 2000

Debate resumed from 23 May 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (8.52): Members will recall that in earlier debate on the bill the opposition expressed considerable dissatisfaction with the prospect of low-alcohol beverages no longer receiving the government subsidy that was introduced expressly for health, safety and common sense reasons to try to attract people to drinking and ingesting alcohol at a more moderate rate. We have made some public statements in that regard. It is a great disappointment that we face the prospect of this subsidy no longer applying.

Let me say that we have had discussion within our caucus as to what might have been done to ensure that we could continue this subsidy within the ACT. However, we do recognise that, since the bringing down of the New South Wales budget, there is the risk of the ACT subsidising a lot more than low-alcohol consumption within its borders. Being uncertain as to the measures the ACT might take to quarantine the subsidy to consumption strictly within the ACT, regrettably we have to accept, effectively, the repeal of the previous provision.

MS TUCKER: Mr Speaker, I seek leave to speak again on this bill.

Leave granted.

MS TUCKER: On Tuesday, I made some comments in opposition to the bill and Mr Humphries responded that I had not done my homework on the liquor subsidy aspect of it. I would like the minister to know that I have looked again at this bill and my concerns have not lessened.

Mr Humphries suggested that the information I needed to show my why the government is proposing this bill is available. He indicated that he had already told the Assembly that the federal government was maintaining a price differential between full-strength and low-alcohol liquor through tiered excise charges and that therefore this subsidy was redundant. I point out to the minister that there was no mention of that in his presentation speech. He only pointed out that the cost of providing the subsidy was steadily increasing and that there was no justification for keeping the subsidy.

I also raised the issue of the government's lack of assessment of the impacts of the subsidy. My office was contacted subsequently by the Commissioner for Revenue with an offer to provide a briefing. At that briefing, we were given the government's assessment. It was a study done in 1984 of regular drinkers at two football clubs in Weston Creek. The study involved a 10 cent drop in the price of low-alcohol beer over about five weeks, an examination of changes in beer sales in the clubs and a survey of the attitudes of the drinkers over that time. Given the artificial nature of the study, it was not surprising that there was no real change in low-alcohol sales.

It was pointed out in the study that it would be very difficult to make regular drinkers change instantly from their preferred beer, even if it was cheaper, because of attitudinal factors and that strategies to promote low-alcohol beer would be better targeted at young drinkers. How young drinkers would respond to price signals is unknown. I am therefore very worried that the government is basing its policy on an outdated and very narrow study, particularly when there is overwhelming evidence that excessive alcohol consumption is a major social and health issue. I would have expected more analysis than that.

It is true that after 1 July there will still be a price differential between full-strength and low-alcohol liquor, but the differential will be less than currently exists. I understand that with the subsidy there is a $7 a carton difference between high and low-strength beer, but under the new federal arrangements there will be only a $4 a carton difference. That is certainly not an encouragement for drinkers to choose low-alcohol liquor.

I would have been much more supportive if the government had said that it is redirecting the money saved on abolishing the liquor subsidy to other programs to promote less alcohol consumption, but it appears that the government just wants to pocket the money and hand over responsibility for regulation of liquor sales to the federal government. It does not look like an example of building social capital to me.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.58), in reply: First of all, I thank the opposition and welcome its support on this matter. Whatever we may feel about the principle of alcohol consumption, the argument about diverting a subsidy to New South Wales is a very compelling one. That is of significance.

Mr Speaker, I want to touch on a couple of the things Ms Tucker had to say; they were utterly extraordinary. First of all, Ms Tucker is continually chiding the government about not doing enough preparation, not doing enough research, not having enough consultation and not preparing enough papers. It should be obvious to everybody in this debate that the decision to match our rate of subsidy for alcoholic products with that of New South Wales was absolutely necessary in order to avoid there being a rush of people across the border to buy our subsidised liquor.

In those circumstances, I would have thought it was not necessary to produce further evidence and do further research and further homework on the policy issues underlying this question. Ms Tucker says, "No, I want to see something. I want to know what is going on. What evidence is there that people will not switch to higher strength alcohol products if the subsidy is taken away"—partially taken away—"from low alcohol beer and other products?" Fortunately, in this case it was possible to produce some evidence. What is more, a study was done in the ACT at a couple of very reputable establishments in Weston Creek, which is part of my electorate. Mr Quinlan may have heard of these establishments as well.

Mr Quinlan: Only in passing!

MR HUMPHRIES: Only in passing! Actually, it was specifically ACT-based research on an alcohol consumption issue, something we have quite rarely in this place. We are a tiny territory of 300,000 people. We have not got the chance to do research programs on every aspect of public policy in the ACT.

Mr Quinlan: I'll bet that study could not stand up to any statistical challenge whatsoever.

MR HUMPHRIES: Absolutely.

Mr Quinlan: Come on, we asked six drinkers.

MR HUMPHRIES: Any challenge can be made, Mr Speaker. We normally do not have the capacity to withstand that challenge, but in this case we actually had a study. Admittedly it is now 16 years old, but it was a comprehensive study based in the ACT, measuring the impact of price differentials in low-alcohol products.

Ms Tucker says, "That is not good enough. I want something more. I want something up to date. Give me some more information." Mr Speaker, sometimes in my wildest dreams I wish that we had a test tube in which we had a Green government so that we could see how long it was before it disappeared in a puff of smoke, completely disintegrating, out of its own lack of logic. Mr Speaker, it is just mind-boggling.

The most extraordinary thing Ms Tucker did the other day when we were talking about this bill was to suggest that it was all right to retain our subsidy in the ACT even if it meant people came across the border from Queanbeyan and New South Wales generally to buy our low-alcohol beer. Ms Tucker has been lecturing us for the last couple of days about how we have to have social capital in this territory—we have to build up social goals and reinforce the community—and how this government does not understand social capital. Here we have the leader of the ACT Greens—actually, the only ACT Green—telling us that it is all right to use ACT taxpayers' money to subsidise beer drinkers in New South Wales. That is a good example of social capitalism, Ms Tucker: we subsidise beer drinkers in New South Wales.

Mr Moore: You have to accept that there is a regional attitude.

MR HUMPHRIES: I am happy to accept a regional attitude, Mr Speaker, but my advice is that the potential for the loophole to be exploited actually goes beyond a regional impact and that, if people were able to manipulate the situation in some way to show that the sales were occurring through the ACT, it might be possible, theoretically or actually, to stream large amounts of these products through the ACT to attract the subsidy and then send them off to far-flung corners of New South Wales and perhaps other places as well. If it were only Queanbeyan, Yass and other areas around the ACT, what possible social advantage would there be for us in subsidising beer drinkers in New South Wales? That would have to be a classic, Mr Speaker, an absolute classic.

Mr Speaker, I thank the opposition for its support for this bill. I hope that the common sense it demonstrates will rub off one day on our friend, the ACT Green.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

FIRST HOME OWNER GRANT BILL 2000

Debate resumed from 23 May 2000, on motion by **Mr Humphries**:

> That this Bill be agreed to in principle.

MR QUINLAN (9.05): Heading this way from my office is a wad of legalese in two scrutiny of bills committee reports and a response to one of them. I was promised a response to the other, but I have not got it. Heroically, I spent my dinner hour reading this material. I have a concern as to how the confluence of events occurs when we have a bill such as this one which has, quite apparently, contentious provisions within it.

Mr Moore: Except that it is a national agreement; hence the interstate agreement is put down.

MR QUINLAN: Yes, I know, but are we heading for the lowest common denominator? Part of the structure of this place is the scrutiny of bills committee. I am not a lawyer, but those of us who have spent some time reading the scrutiny of bills committee's reports Nos 6 and 8 on this legislation and Mr Humphries' response to at least No 6 would have to conclude that we rely on expertise. There is not a lot of plain English in that wad of paper.

With that in mind, I would love to be adjourning debate on this bill one more time. However, I do appreciate that the bill needs to be up and running by 1 July, so I announce my intention to move a few amendments to the bill to reduce the powers and burden of proof provisions of this bill in line, I think, with the spirit of what has come through in the scrutiny of bills committee's reports.

Let me say quite openly that I am prepared to hear that what I want to do with the bill will not achieve or needs to be changed to achieve what I want to achieve. All I have done is take the minimalist approach and cut out a couple of words here and there and a clause here and there which may need to be replaced later for the administration to work properly. But what I want to do is to make sure that there is no overkill in the bill. I am quite happy for the government to bring another bill forward in June or later to reinstate a couple of the administrative conditions in a lesser form.

At this stage all I will say is that the opposition supports the bill in principle, but I do wish to make some changes to it to incorporate at least or to recognise the findings of the scrutiny of bills committee which, given that I have not read Mr Humphries' second reply, remain on foot before this Assembly at this time.

MR SPEAKER: I seek clarification, Mr Quinlan. You have foreshadowed a couple of amendments. You are seeking to omit paragraphs (a) and (b) from clause 25. Is that paragraphs 1(a) and (b) or 3(a) and (b)?

MR QUINLAN: With your indulgence, Mr Speaker, it is paragraphs 1(a) and (b). Is it appropriate to move that amendment now?

MR SPEAKER: No, it is not. The bill is still in the in-principle stage. I just wanted to clarify it for the benefit of Assembly members so that they know what they are doing.

MR TUCKER (9.10): The Greens support this bill as it offsets the effect of the GST on the acquisition of that first home. The number of concerns raised by the scrutiny of bills committee is alarming. These GST-related bills are always presumed to reflect provisions in other states and the presumption appears to be that there is not a lot of choice in the matter, once again.

In this instance, the loose approach to some of the principles of administrative law, such as burden of proof, makes you wonder whether a more careful approach is not warranted. I will be looking at the amendments from both sides of the Assembly in dealing with these issues and I will support those amendments which redress the balance in favour of defendants.

The real problems with this bill is that it does not serve the interests of the community, particularly those in the community who are disadvantaged. In this instance, the issue is

housing. Government housing has become more and more tightly targeted and, with a very tight private rental market, the pressure on people of limited income to buy their first home is increasing.

For many people there is a poverty trap in mortgages. Increases in interests rates, of course, have exaggerated the position. My concern is for those people at the lower income levels, the people that the GST will hit hardest, the people on whom increases in takeaway food, clothes and other basics will hit hardest, the people for whom reduced luxury car prices make little difference, the people who benefit least from the tax cuts.

I would feel more supportive of the First Home Owner Grant Bill if it were tightly targeted to those most in need, rather than being equally available to all. It is another example of the ill-considered approach to overcoming inequity in our society. I was quite interested to see Mr Humphries' theatrics in the last debate and his absolute disbelief that anyone could raise issues other than the price, such as the fact that the life of a child in Queanbeyan might be saved by education campaigns and the availability of low-alcohol beer. The fact that this might have some kind of impact on society over our border could not be part of the discussion.

It is really interesting to me to see this from a government which is promoting social capital. Earlier today I quoted Eva Cox about the tendency to ridicule alternative views and how dangerous it can be when the people who support the dry approach to economics like to use ridicule. I have been noticing Mr Humphries and Mrs Carnell doing that by saying, "Aren't the Greens silly in talking about something other than the bottom line?" It would be much better if Mr Humphries just put the arguments for debate. I did raise the issue of social benefit across the border.

Mr Humphries: I will use satire instead.

MS TUCKER: What we have seen with competition policy—

Mr Moore: You have been ridiculing our attitude to social capital from the moment we released the budget.

MS TUCKER: I have noticed, Mr Speaker, that you tolerate lots of interjections on some occasions and on others you do not. I would appreciate consistency.

Mr Humphries: That sounds like sarcasm to me.

MR SPEAKER: Thank you. I am quite happy to—

MS TUCKER: Mr Humphries thinks that that is sarcasm. I am sorry if he thinks that it is sarcasm. I was pointing out to you, Mr Speaker, some concerns I have about how the standing orders are administered.

MR SPEAKER: Please continue, Ms Tucker. Do not worry about that.

MS TUCKER: We know that with competition policy generally, which is also supported by this government, we often do see a race to the bottom. That is really very unfortunate. It is perfectly legitimate for people in this place to raise issues other than the

price. That is what I was doing in the debate about low-alcohol beer. Right now I am raising the issue of equity in our society, which is also a legitimate concern and something worth bringing up in debate, and I will continue to do so. This GST payment is not about the redistribution of wealth within our society.

I have noticed Mr Moore chuckling and making interjections as well. I think that he does have some understanding of the issues of equity and the relationship between equity and health. We are talking about equity at this moment when we are talking about first home owners. In looking at the redistribution of wealth in our society, we know now as the research results are there clearly that a society that has a more equitable distribution of resources will have better health in the community. If Mr Moore is not aware of that research, I am happy to give it to him; but I did sense that he had some understanding of those issues. It would be very useful if we had this government acknowledging the inequity in our society a little bit more, instead of being quite so hysterical about the bottom line issues.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (9.16), in reply: I thank members for supporting the bill. Clearly, this bill is important because, of all the money that is going to be spent on programs in the coming year from the budget, this is the easiest to deliver because it is a program that comes paid for by the Commonwealth. Obviously, we are very pleased to be able to facilitate there being a first home owners scheme in the ACT, providing first home owners with a grant of $7,000—a flat $7,000 to each person who buys a home from 1 July this year.

I have seen the comments of the scrutiny of bills committee. I have prepared some amendments as a result of that committee's two responses to the bill and I commend them to the house for debate later.

Mr Speaker, let me make an important point about this scheme. It is a national scheme. I understand other Australian governments have now passed this legislation and we are among the last, if not the last, to put in place the first home owners scheme. We need to recognise that our flexibility to do our own thing in this arrangement is rather limited. The Commonwealth government is providing the ACT with $16 million or something in that order for first home owner grants in the course of 2000-01. It would be tempting to dramatically alter the conditions and perhaps relax the conditions for the making of these grants in the ACT, but we do not have that luxury, Mr Speaker, simply because it is not our money. It is the Commonwealth's money and we are obliged to deliver the Commonwealth's money in a uniform way across the country—

Mr Quinlan: It was your money in the budget blurb.

MR HUMPHRIES: No, I never said that it was our money. Mr Quinlan, the press release did say very clearly in the second paragraph—

Mr Quinlan: Initiatives—first home owner scheme.

MR HUMPHRIES: It is an initiative. We have to administer it. There is an administrative cost to the ACT, so it is an initiative in which we share. It is important

that we be able to deliver that scheme in a uniform way. We do not have the luxury of greatly changing this bill and I urge members to be careful about what changes are made.

I am not exactly sure what the Commonwealth will insist upon on of what is being brought forward in our bill. I do not know which amendment would be the one that would make the Commonwealth say, "Sorry, this is not the scheme we have agreed to fund. Go back and do it again." Mr Speaker, we would put ourselves at serious risk of leaving ACT home builders and home purchasers without access to a first home owners scheme on 1 July if that were to be the case.

Mr Quinlan: We are supporting it. What is the problem?

MR HUMPHRIES: I do not think that there is a problem, but there are a couple of amendments which I am not sure about at this stage. Because of the timeframe we have for dealing with them, I just do not know what the attitude of the Commonwealth will be to them. I just indicate to members that they should be a little bit careful about this process.

I thank members for supporting the bill as a whole. I hope that it will come through fairly unscathed and we will be able to proceed with implementing this important scheme for ACT home owners and home builders from 1 July.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 24, by leave, taken together, and agreed to.

Clause 25.

MR QUINLAN (9.20): I move:

> Page 13, line 1, paragraphs 1 (a) and (b), omit the paragraphs, substitute "decision in any way".

This amendment relates to the scrutiny of bills committee's reports and its consultant's recommendations. Effectively, there is a concern that, by limiting appeals virtually to two grounds, some people's rights may well be impinged upon. I note that the government has conceded that and has listed in its proposed amendment a considerable number of elements of a decision that might be appealed against, which only goes to confirm the reservations of the scrutiny of bills committee in the first place.

Again, without a lot of knowledge about the processes, I cannot be sure that that list is exhaustive. I propose that we just allow people to appeal against the decision in any way. If we find that that is too broad in administrative practice, then the government can come back with some better structure. At this stage, that is the only way I can see that we can

resolve part of the reservations of the scrutiny of bills committee and still allow the bill to go through. I recommend the amendment to the Assembly.

MR SPEAKER: Mr Quinlan, are the subsequent amendments consequential on the amendment to clause 25?

MR QUINLAN: No, not necessarily.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (9.23): Mr Speaker, I cannot pretend that I have had a long time to consider these amendments.

Mr Quinlan: You and I both, brother.

MR HUMPHRIES: I think that we are all in the same boat. I should explain to the Assembly that it is essential that the Assembly consider this legislation tonight because the scheme needs to start before 1 July in the sense that outsourced providers of the grants need to be able to prepare for that and doing so in the June sitting would be too late, so I ask for the indulgence of members to get through it tonight.

I do not seriously object to Mr Quinlan's amendment. My advice simply is that it does not achieve very much, to be blunt, but it does not do much harm. I assume that the passing of this amendment would supersede my amendment No 1, which sets out in detail what the grounds for an objection might be, but I do not have a concern about replacing those with a broader ground for appeal, namely, a decision made by the commissioner, so I do not oppose the amendment.

Amendment agreed to.

Clause 25, as amended, agreed to.

Clause 26.

MR QUINLAN (9.25): Mr Speaker, I move:

> Page 13, line 19, subclause (2), omit the subclause.

This amendment also relates to the scrutiny of bills committee's reservations, as brought forward in quite lengthy discussion, in terms of the burden of proof. Again, I have taken what I think is a minimalist approach of saying that the act can survive quite well without this provision and recommend to the Assembly that it take cognisance of the scrutiny of bills committee's reservations and omit subclause 26(2).

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (9.26): The government will oppose this amendment. I would like to explain why. Members need to be aware of what happens when a person who has had a decision made in respect of them wishes to come forward and make an objection to the decision. The objection can relate to any decision of the commissioner with respect to their application.

Let us assume that it relates to, for example, a decision made by the commissioner not to grant somebody a first home owner grant on the basis that the commissioner believes that this person has had a previous house which might disqualify the person from eligibility under this scheme, that the commissioner has some evidence or information that this person's name appeared on a title somewhere in the past and this means that the person is disqualified from getting a first home owner grant because the person is not, in the view of the commissioner, a first home owner.

Subclause 26(2) is designed to allow the commissioner to say to the objector, "I suspect that you are not entitled, but you say that you are entitled. I want you to produce the evidence that shows me that you are not, in fact, disqualified under this scheme from having a first home owner grant." The reason for that is that the commissioner does not actually have the information at his or her disposal to be able to make an assessment of this matter because the information is in the possession of the objector.

How is the commissioner to know whether the John Smith referred to on the title deed in the Land Titles Office as owning a house is the same as the John Smith that is now making an application for a first home owner grant? The commissioner simply does not know and cannot know.

Mr Hargreaves: He should not make the decision at all, then.

MR HUMPHRIES: No, the commissioner has an obligation to protect the revenue of the territory; in fact, it is the revenue of the Commonwealth in this case.

Mr Hargreaves: Is that his prime obligation?

MR HUMPHRIES: It is an obligation on the commissioner, yes, to protect the revenue that the territory is administering in this case.

Mr Hargreaves: He should just ask for extra information, instead of rejecting the application.

MR HUMPHRIES: That is the point. You can ask for the information, but if the applicant refuses to provide it and the commissioner cannot prove the case that this John Smith is actually the same as the John Smith appearing in another document—let us face it, there are lots of John Smiths around the place—then the commissioner fails because the removal of subclause 26(2) shifts the burden onto the commissioner to prove that a particular applicant is not worthy of this grant.

You need to allow the commissioner to protect the revenue. The commissioner needs to be able to say, "I have a reasonable doubt about this matter. I want you to show me that you are actually eligible for this grant. Show me that you are not the John Smith who appears on this title deed." It should not be difficult to do that in most circumstances, but it is information that only the applicant can provide.

The second argument I advance on this matter is that it is a provision that appears quite commonly in other territory legislation where grants are provided. It is certainly provided in other pieces of legislation in the ACT. I am not sure how commonly, but it is certainly provided in other pieces of legislation and it provides a basis for forcing information

which lies in the hands of somebody who is seeking something from the territory to be brought forward. Do not forget that a court of law looks at the onus of proof. If the onus falls on party A and party A cannot discharge the onus, then generally speaking party B will succeed.

If we take out subclause 26(2) and the commissioner cannot satisfy somebody else that there is a solid case against a particular application, then in some cases at least the application will have to succeed and the territory's revenue will go out the door. So the second argument is that this provision appears, I understand, in at least some equivalent legislation elsewhere in the ACT.

Thirdly, the most important argument is that this provision appears, I understand, commonly in legislation across the country for the first home owners scheme. If we take it out, if we do not make it more difficult for people to falsely claim moneys against the scheme, I do not know what the Commonwealth is going to say about the application of the scheme. I do not know whether they are going to come back and say to me, "Sorry, this is not the scheme that we promised to fund. We wanted you to provide a scheme whereby we had measures in place to protect this funding. You have changed the conditions." You are applying conditions which, to the best of my knowledge, are not the same as the ones appearing in other state legislation.

In those circumstances, the Commonwealth may say, "Sorry, you are not fulfilling your part of the bargain; you do not get the funds."

Mr Hargreaves: Was that a precondition?

MR HUMPHRIES: Yes.

Mr Hargreaves: Was every single word in the act a precondition?

MR HUMPHRIES: No, it was not like that.

Mr Hargreaves: Where is the problem, then?

MR HUMPHRIES: I will explain what happened. The Commonwealth gave us a template scheme and said, "Please implement this scheme." They acknowledge that some variations are possible to reflect particular practices in particular jurisdictions. For example, it might not be commissioners for revenue who administer it; it might be commissioners of taxation, receivers of public moneys or something of that kind. Differences of that nature could appear, but the elements of the scheme have to be the same. I do not know whether reversing the onus of proof on objections satisfies the Commonwealth; I just do not know.

Mr Hargreaves: Why don't you find out?

MR HUMPHRIES: We can find out, but not at half past nine on a Thursday night. I do not think there is anyone available at this time of night to find out, Mr Speaker.

I have one other point to make. It is true that in the early years the money will be Commonwealth money; it will be money that the Commonwealth provides and it will specify the conditions of the scheme because it is actually topping up our payments to meet the costs of this scheme. In the outyears, in the long run when the ACT begins to get net gains from the GST, which will be about 2003-04 onwards, the money will be our money because the Commonwealth subsidy will have cut out and it will be our money that will be going into this scheme. When that happens, fine; we can make all sorts of concessions to applicants. We can let people make applications without having to prove their applications and all sorts of things. It will be fine when that takes place. But for the moment we can only apply the scheme on the conditions laid down by the Commonwealth.

I suggest to those members who are concerned about this matter that we pass the legislation tonight without this amendment in it and then ascertain from the Commonwealth whether there is an objection to the removal of subclause 26(2) from the legislation. If the Commonwealth says that we are still eligible for the money, I undertake to bring back an amendment to the Assembly or let Mr Quinlan bring back an amendment removing that provision. That is the safer course of action, Mr Speaker, because in that way the scheme would start on 1 July. It is most unlikely that there will be many objectors before 1 July who would be caught by that provision anyway, so it will be clear at that stage. We will be able to proceed. We will know what is going on. It is easier to build that protection back in than to run the risk of losing the scheme on the basis of a condition which the Commonwealth will not accept. So I ask members not to support the amendment.

MR HARGREAVES (9.35): I think that the government has had plenty of time to figure that out. The scrutiny of bills committee's original report, which pointed out this problem, has been out for some time. The government could have checked it out plenty of times before now, but has not done so. In fact, it has not addressed the concerns of the scrutiny of bills committee anyway.

I take issue with the minister on some of the things that he said. He said that the commissioner might have some evidence to suggest that an application should be refused. If he has only got some evidence to suggest that an application ought to be refused, perhaps he ought to find some proof that the application should be rejected. Subclause 26(1) says:

> The grounds for the objection must be stated fully and in detail and must be in writing.

That should be enough. There should be no need to say that the burden of proof ought to be on the applicant. There is plenty of room to move in there; there is no necessity for this provision. If the commissioner does not have enough information, if he has only a little bit of information, how on earth can he actually reject something? He can just say, "Heck, I do not think that that should go through." The commissioner can just as easily say under subclause 26(1), "You have not stated fully and in detail what it is. Go back and do it again. Go back and give me more information before I approve it." In other words, he does not have to reject it. He can just say, "I am not going to approve it until you do provide me with that detail."

Mr Humphries: That is not true. It is a statutory scheme.

MR HARGREAVES: He does not have to reject the application.

I was concerned when I heard the Treasurer say that the commissioner's prime job was to protect the territory's revenue. This scheme is not about serious crime. It is about giving people a loan to set up a home in the first instance. This scheme is about giving a leg-up to people who otherwise would not get one. We do not need to treat this matter as though it is a heroin investigation. There are plenty of provisions within this bill which enable people to get that leg-up without assuming that they are guilty before we clearly know it. It goes to the presumption of innocence before being proven guilty; this provision has the reverse effect.

Mr Speaker, in the debate on the road transport legislation we had the hoary old line that if we did not do something the Commonwealth would get angry and keep money from us. I have to say that that did not stop us amending the legislation to reflect the amendments that Mr Rugendyke moved because the legislation was just plain silly. We ran the risk of the Commonwealth getting angry with us there because it was national scheme legislation. We have the same thing here. Why should we blindly follow something that the Commonwealth has said if you have not proven to us after a considerable period that the scrutiny of bills committee was wrong?

This matter has been the subject of an agreement for months, I would assume. We have had the scrutiny of bills committee point to an issue concerning the burden of proof and you have given the scrutiny of bills committee a response that was not particularly acceptable to the committee, yet you still come back and say that the burden of proof has to be with the applicants because they are presumed to be guilty until they can prove themselves innocent. I am sorry, I reject that.

I would also reject any argument that the Commonwealth is going to withhold money over an issue involving protection of the fundamental right of being presumed innocent. I do not believe that. I would have more faith in the ability of our Attorney-General and Treasurer to argue the case on the basis of basic human rights. I do not believe that they would pull the dough off us, Mr Speaker.

MR SMYTH (Minister for Urban Services) (9.40): Mr Speaker, it is just ridiculous to make the point that we are meant to read scrutiny of bills committee reports and assume every possible amendment that the opposition might make on the basis of those reports. We talk about cooperation in this place. Mr Corbell made comments last night about cooperation. These amendments were tabled an hour ago. Is Mr Hargreaves saying that at 20 to nine a bevy of public servants should be on hand because members of the Labor Party cannot get themselves organised? You have had the scrutiny of bills committee's report for as long as we have had it and you had the opportunity to get your amendments ready far earlier and give us an opportunity to make reasonable decisions on these things. It is ridiculous for you to make those comments and it is ridiculous that we should have to accept them.

MR QUINLAN (9.41): Mr Speaker, to close the debate on the amendment—

Mr Humphries: There is no closure of debate on an amendment.

MR QUINLAN: Okay. As I stated earlier, for whatever circumstance, I find myself with a wad of advice from the scrutiny of bills committee's expert consultant and, quite obviously, conflicting advice from the Attorney-General, some of which I just have not read because it arrived while I was on my feet in this debate.

Mr Humphries: It was given to your staffer earlier this evening.

MR QUINLAN: Anyway, earlier tonight.

Mr Humphries: It was ready only today.

MR QUINLAN: We just do not do things instantly.

Mr Humphries: Yes, I know. It is nobody's fault. It has just come in late.

MR SPEAKER: Can we get on with the business of the house, instead of chatting, please.

MR QUINLAN: Thank you, Mr Speaker. Can I just read some of the scrutiny of bills committee's report, which is the thing that I have to rely on until I am certain, and the Assembly is certain also, and the issue is resolved. The report states:

> Clause 26 contains some unusual provisions. Under subclause 26(1), the applicant must state the grounds for objection to the commissioner "fully and in detail", and under subclause 26(2): "The burden of showing that the objections should be upheld lies with the applicant".
>
> The result may be that the commissioner may only review a decision on the application in terms of the statement of the grounds for objection provided by the applicant. If this is so, this is inconsistent with a principle generally applied on a "merits" review.

There are a couple of paragraphs that go on further than that. From my limited scope in terms of the law, that is the advice on foot from the objective independent consultant that scrutinises the bills. So, until proven otherwise, one has to say to oneself that maybe the smart thing to do would be to take this provision out of the bill and if, in fact, it so emasculates the act in action, fix it.

Mr Humphries has stated that he rather thinks that we should check with the Commonwealth. By all means, do so. But why do we not take it out, consult the Commonwealth, see whether it has to be in it, or something else like it or something half-way to it, and then drop it in there in June, but that would not preclude you from administering the bill that we will pass tonight. As I said when I first rose in this place, my objective in relation to this bill is not to hold up its progress but to recognise the findings of the scrutiny of bills committee and its consultant, which, as far as I am concerned, are still on foot and still before this Assembly. I commend the amendment to the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (9.45): I want to make one more point, Mr Speaker. I just ask the Assembly to consider the possibility of there being a headline in the *Canberra Times* in a few days or few weeks saying, "First home owners scheme stalls in ACT—Commonwealth decides to hold back scheme," or something of that kind, because our legislation is deficient. I do not know whether that is going to be the case. I cannot find out at a quarter to 10 on a Thursday night.

Mr Speaker, we have two courses of action—leave it in or take it out. I put it to you that leaving it in is the safer course of action because it can be removed later if we know that the Commonwealth does not object. Taking it out would delay the implementation of the scheme and, starting from now, we have to get the scheme ready to operate because the scheme is to be administered by financial organisations out in the community. They are the ones that are actually going to provide the grants, as I understand it, to people in the community. They have to have paperwork, they have to have criteria and they have to have explanations as to what happens to people when they make these applications. We need to put that scheme out there—

Mr Quinlan: Give me a break!

MR HUMPHRIES: I am sorry, that is the advice that I have received from my department, Mr Quinlan. If you do not like the advice—

Mr Quinlan: That the Commonwealth is going to turn its back on it because we have taken out this provision?

MR SPEAKER: Order! Get on with the debate, please. It is a quarter to 10.

MR HUMPHRIES: I did not say that. I said that the Commonwealth may.

Mr Hargreaves: And they may not**.**

MR HUMPHRIES: That is right. What is the safer course of action?

Mr Hargreaves: To take it out.

MR HUMPHRIES: No, because we run the risk that, if they do not like it, the scheme cannot commence.

Question put:

> That the amendment (**Mr Quinlan's**) be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Clause 26 agreed to.

Clauses 27 to 42, by leave, taken together, and agreed to.

Clause 43.

MR QUINLAN (9.50): Mr Speaker, I have two amendments to clause 43. I seek leave to move them together.

Leave granted.

MR QUINLAN: I move:

> Page 20, line 18, subclause (1), omit the subclause.
>
> Page 20, line 23, subclause (2), omit "answering the question", substitute "answering a question".

The second amendment is contingent on the first amendment. Again, the amendments arose out of the scrutiny of bills committee's reports, obviously not always supported by the chairman of the scrutiny of bills committee, and relate to self-incrimination. Subclause 43(1) effectively strips a person involved of the right to refuse to provide information on the basis of self-incrimination.

Mr Humphries: I take a point of order, Mr Speaker. I cannot read the writing in Mr Quinlan's amendments. Can he just tell us what those words are after "omit"?

MR SPEAKER: Omit "answering the question", substitute "answering a question".

MR QUINLAN: Mr Speaker, the amendments are based purely on the findings or observations of the scrutiny of bills committee. They must be observations as they are not supported by the chairman of the committee. I recommend that subclause (1) be omitted from the bill and that subclause (2) be amended to accommodate that omission. I commend the amendments to the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (9.53): My adviser, the Commissioner for Revenue, is concerned about these provisions coming out. I suppose the most compelling argument about this provision is that it is a standard provision which appears in all ACT taxation legislation. I understand that the formula used in this clause was amended. My recollection is that it was amended some years ago to reflect a concern about an overly wide power of self-incrimination and subclause (2) was put in there to mitigate the effect of it, so that a person was not excused from answering a question seeking to obtain information in order to assess whether, for example, an application should be approved. Subclause (2) makes it clear that the answer is not admissible in evidence against that person except in limited circumstances, namely, for perjury or for an offence of making false or misleading statements.

Mr Speaker, all it says in a sense is that if you are asking for money from the government and you are asked to provide information about the application or subsequently, to verify whether the money has been legitimately, not fraudulently, provided, you are asked to provide information about that, you have to provide an answer under the legislation. It is clear that you have to provide that information and you do not have an exemption on the basis that you will incriminate yourself, although the only offence for which that information can be used is an offence of perjury or providing false or misleading information.

If a person provides false or misleading information in that form, why should they not be subject to some form of prosecution? Of course they should; they are committing a fraud. They are attempting to obtain money of the territory by deception or whatever the formulation might be. It is only fair and reasonable, if there is a power to require a person to provide information, that there be limits on the extent of the penalty that can be brought against them or the prosecution that can be brought against them on the basis of that matter.

Mr Speaker, my advice is that this is not a matter which is likely to have the Commonwealth concerned about the ACT's scheme, so it is not likely to be a matter where the Commonwealth will say that we can or cannot do something and reject our scheme on the basis of its being there. But it is there on the basis that it exists in all other ACT taxation matters. I might point out also that it is in taxation legislation which was brought forward and passed by the former government. It is a standard provision; it has been there in all taxation matters—for example, the Taxation (Administration) Act—and members have allowed it to be there for some time.

In general, these provisions are not supportable in other legislation, but in tax legislation they are quite standard. If the Assembly wants to take them out of this bill tonight, we really ought to go through and take them out of all ACT taxation legislation.

MR STANHOPE (Leader of the Opposition) (9.57): I am concerned about the attitude that is being adopted in relation to this piece of legislation. There is some pressure for it to be passed; we are all aware of that. In effect, as Mr Quinlan has indicated, the Labor Party is generally supportive of this bill. Mr Quinlan has indicated that our preferred position, to meet the needs of the government, to meet the needs of first home owners and to meet the needs that have been pressed upon us by the imminent arrival of the GST, is to pass this piece of legislation, but there are certain aspects of it that do cause us significant concern, just as they caused the scrutiny of bills committee significant concern.

The proposal that Mr Quinlan offered to overcome the difficulty that we have with this matter, but nevertheless to meet the government's basic requirements and to ensure that first home owners are not disadvantaged, is that two or three of the clauses be excised with a view to their being revisited at some time in the near future when further consideration can be given to how the legislation might be improved. It seems to me a sensible and logical approach to this difficult issue, a position that we have arrived at because of the haste and the speed with which the legislation has been prepared.

It is worth noting what the scrutiny of bills committee has said in relation to this clause. The opening sentence of the scrutiny of bills committee's comments in relation to clause 43 is that the committee does not appreciate why the privilege against self-incrimination should be more restricted in taxation and other revenue legislation. The Attorney's response to that and the Attorney's response to the Labor Party's concern is to suggest that, if we are worried about it in relation to this bill, then equally we should be considering the sister provision in every other piece of taxation legislation. That is simply absurd. We are dealing here with a particular bill which has been pressed upon us because of the imminent arrival of the GST and the need to protect first home owners after 1 July. To suggest that we should tonight, because of our concerns about this bill, address similar provisions in all other pieces of legislation is arrant nonsense, is superficial and shallow and is the sort of comment that really does not reflect the extent to which the Labor Party is prepared to compromise and seek to be helpful in relation to this bill.

Issues such as the right not to incriminate oneself are fundamental principles of the operation of law. They are fundamental principles and they should not be rammed through in these sorts of circumstances. Whether at the end of the day it could be accepted that provisions in relation to privilege against self-incrimination are relevant or reasonable in relation to taxation legislation is one thing, but we should not be ramming through this parliament provisions in relation to this sort of significant issue in these circumstances. It just should not be done. There is no reason for this provision not to be excised tonight and for the matter to be revisited at the government's and perhaps the Assembly's leisure. We have been put under pressure here tonight in relation to this bill and these provisions because of the rapidly arriving GST date but that is no reason, because the government has been tardy in introducing the legislation, to ram it through and in so doing to subvert these fundamental principles of the criminal justice system.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.01): Mr Speaker, I just want to draw one more matter to members' attention tonight. We have actually had this debate before. The self-incrimination provisions are the same as the provisions that appear in the Taxation

(Administration) Act. I had forgotten, but we had this very same debate last year when the act was passed. The scrutiny of bills committee recommended against it at the time. I assume the same adviser was making the same comments. The Assembly considered the matter in detail and decided that it would retain self-incrimination provisions in taxation legislation.

To be consistent, I suggest members ought to leave the provisions in this legislation as well. In fact, the sums of money here, on average, are much larger than the ones administered by the Taxation (Administration) Act. Most people do not pay taxation at the level of $7,000, so this is actually a much larger sum. Therefore, the argument for having self-incrimination provisions here is rather greater than it was in the Taxation (Administration) Act.

Question put:

> That the amendments (**Mr Quinlan's**) be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendments negatived.

Clause 43 agreed to.

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

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.05): Mr Speaker, I seek leave to move my amendments together.

Leave granted.

MR HUMPHRIES: I move:

> *New clause –*

The following new clause be inserted in the Bill: Page 20, line 29:

"**43A Legal professional privilege**

If, in response to a requirement to answer a question, provide information or produce a document, a person is entitled to claim, and does claim, legal professional privilege in relation to the requirement, the person does not have to comply with the requirement.".

Amendment –

Clause 45, page 22, line 2, omit the clause, substitute the following clause:

"**45 False or misleading statements**

A person must not knowingly or recklessly in or in relation to an application for a first home owner grant—

(a) state anything that is false or misleading in a material particular; or

(b) omit from a statement anything without which the statement is misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Mr Speaker, these amendments pick up recommendations of the scrutiny of bills committee. I table a supplementary explanatory memorandum.

Amendments agreed to.

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

Bill, as amended, agreed to.

INTERPRETATION AMENDMENT BILL 2000

Debate resumed from 23 May 2000, on motion by **Mr Humphries**:

That this bill be agreed to in principle.

Debate (on motion by **Mr Osborne**) adjourned.

MILK AUTHORITY (REPEAL) BILL 2000

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

That this bill be agreed to in principle.

MR HARGREAVES (10.06): The Milk Authority (Repeal) Bill will represent the final nail in the ACT milk industry's coffin. The future for vendors, the processor and the consumer is looking very uncertain, with no-one really knowing what the outcome will

be. The decimation of the ACT milk industry began two years ago when the government called for a review of the industry, claiming that it had to be done because of national competition policies. From this review we got the highly criticised Sheen report. That report was slammed by vendors, farmers and processors for failing to do a public benefit test. Most of us are affected by what happens to the milk industry. Most people drink milk, and many people make a living from it. But even so no public benefit test was done.

The blame for all the problems encountered now lies with the Minister for Urban Services. He was the one who screamed the Trade Practices Act and the national competition policy back in 1998, and we can thank him for where we are today. In December 1998 the minister said:

> It is the TPA issues that are of gravest concern to the vendors, because it is the TPA issues that put them at greatest risk. We provide protection to the various market participants—to Goldenholm Dairy, to the processor, to Capitol Chilled Foods, to the distributors, to home vendors and indeed to consumers—by making sure that we fix this problem.

Minister, you fixed the problem really well! Vendors are now walking off their runs. This has become a weekly occurrence, as people in Hughes and Garran will probably know by now. Distributors' income has been cut because of the introduction of national fees into the marketplace, which has cut the delivery of Canberra milk to Woolworths. This flows on to Capitol Chilled Foods, who need to maintain sales of Canberra milk, because if sales drop there is a threat that the plant might close, which would mean job losses.

Do you still think that what you did was such a good idea, minister, wherever you are, if you are watching on the television? This is what happens when you rush through the process and fail to conduct a public benefit test and ignore the main players in the industry. I have spoken with all market players, from vendors through to the processor, and they have all asked, "Why did the ACT government do it?" They are also disappointed with the lack of consultation through this whole process. Many of them did not even know about this bill until I contacted them.

A few weeks ago I attended a scrutiny of bills meeting in Brisbane. At that meeting national competition policy was discussed. According to the director of the Economic Policy Coordination Branch of Queensland Treasury:

> NCP reviews must not only consider whether an existing or proposed restriction provides a public benefit but also whether other options would achieve a greater public benefit.

The Sheen review failed to do that. But still you pushed ahead. The director also mentioned the Trade Practices Act exemptions:

> The anti-competitive conduct being exempted must yield benefits to the community that outweigh the costs to the community of any restrictions on competition.

I would have thought that cheaper prices, jobs for young people and viable small businesses were enough benefit to outweigh increased price, fewer jobs for young people and a shrinking small business sector. He went on to say:

> Exemptions have been provided for conduct carried out in the dairy, sugar and chicken meat industries.

Dairy! Hear that, minister—an exemption for dairy? Queensland Treasury made an interesting point about compensation for victims of change. It asked who should pay the costs of compensation. The beneficiaries should. Who are the beneficiaries of this change? The government has not told us. In 1995 we were told that benefits of the NCP would be lower prices, higher productivity, higher real wages and increased employment. On each criterion the decision to deregulate has failed.

It is unfortunate that we cannot change the past and the wrongs that this government has done in the milk industry. The Minister for Urban Services has thrown a bomb into the industry, let it exploded and walked away from the mess he created. Now we are left with a Treasurer who has not been very comfortable in his role as a milkman.

Ms Carnell: That is just rubbish.

MR HARGREAVES: Mr Temporary Deputy Speaker, I seek your protection, please, from the people across the chamber who are trying to bully me.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird**)**: This would be a unique occasion, with you asking the chair to protect you. I think you are very competent in looking after yourself, but you have my protection, Mr Hargreaves.

MR HARGREAVES: I thank you very much, Mr Temporary Deputy Speaker. Now we are left with a Treasurer who has not been very comfortable in his role as a milkman. However, he has failed too. Rather than stepping back and looking at the mess his colleague left and maybe fixing it, he charged straight in to finish the job off. He thought he could be a good bloke and offer the vendors a sweetener, but it is too little too late. A sum of $360,000 was paid to approximately 22 vendors. This allowed them to exit the industry with a small amount of money. Other vendors snapped their runs up, some only paying $100 for a 1,000-litre run or equivalent.

The problem now is that the vendors who bought the runs do not have enough money to service their new areas. The banks will not advance them the money to buy the product up front. Yet they have to wait up to a month for payments from customers. Put simply, the new-found extended runs cannot get the milk to service the customers. They are delivering milk to the old area, and once this is done they do the delivery for the new run. This has meant that some consumers are receiving their milk at 11 o'clock at night. Instead of vendors expanding their businesses, they are delivering to more homes but only half as often and losing customers as a result.

The milk vending sector is in chaos. It is all very well for the minister to say, "Do more advertising or increase the delivery frequency to your area," but at the end of the day vendors are nervous about 1 July. No-one can protect them from the large supermarkets, and they are scared. Woolworths and Coles will be able to charge less than vendors for

a one-litre carton of milk. If the vendors try to match them, their profit will be squeezed. These supermarkets can afford not to make a profit on milk, because they can increase the price on other items to compensate for the loss. Naturally, consumers will be happy to pay 10c less for their milk, and many will be happy to forgo the luxury of a home delivery for cheaper milk at a supermarket. With deregulation, we are at the mercy of the large supermarkets. Those within the industry will find it impossible to compete.

The ACT has the cheapest milk—$1.22 for a one-litre carton—compared with $1.30 in New South Wales and $1.45 in Victoria. The price in the ACT has nowhere to go but up, and after 1 July that is exactly what will happen. Unfortunately, the future does not look rosy for the ACT milk industry. Prices are bound to go up, vendors will continue to walk off their runs, and more jobs will be lost than have been lost in the last few weeks. Whether they are milk runners' jobs or full-time positions, they are all very relevant. At the end of the day, the blood of the ACT milk industry is on this government's hands.

MS TUCKER (10.15): The minister said in his presentation speech that this bill represents the final phase of milk industry deregulation in the ACT. I would say it represents the final nail in the coffin of the local milk industry. This deregulation process started with the competition policy review of the legislation controlling the milk market in the ACT and the moves by the states to deregulate their markets. The Sheen report was broadly criticised at the time as being an inadequate assessment of the public benefit of deregulation of the milk industry, but the government went ahead with its deregulation agenda anyway.

The bill before us today is the final action that began with the amendments to the Milk Authority Act passed by this Assembly at the beginning of last year. Those amendments gutted the regulatory functions of the Milk Authority and set up the ending of its commercial processing and distribution functions on 30 June this year.

Since the passing of that legislation we have seen many disgruntled milk vendors leave the industry with little to show from their original investment in milk licences. The vendors who have stayed are struggling to survive. The home delivery of milk and the jobs that went with it will soon be a thing of the past. The government did establish a home vendor rationalisation scheme to assist in the consolidation of existing home vendor runs but, with the total deregulation of the market coming up, the future of the remaining vendors is very uncertain.

It is too late now to stop this deregulation, but I have to wonder what the public benefit has been. The only people who seem to have benefited are the supermarket chains and the large milk distributors. The local milk vendors have lost out. It is also uncertain whether local milk processing will continue at the Kingston plant, as it may be cheaper for the distributor to bring in processed milk from interstate. This will result in the further loss of local jobs.

This issue has highlighted the inadequacy of competition policy, in that it produced contradictory outcomes. Competition policies based on the assumption that government action to regulate industry to protect the public interest should be superseded by the principle that the public interest is best served by having industry regulate itself.

Governments have removed regulatory barriers to competition, supposedly to create a more level playing field in a particular industry sector. But in the end this has allowed the big corporations to reduce competition themselves by using their market power to push out the small players. Public benefit gets transformed into the economic benefits of the corporations. The benefit to individual members of the public gets lost along the way.

The local milk industry has been sacrificed on the altar of competition policy. I guess we will have to wait and see whether the promised benefits of deregulation come about. I have my doubts. We may get cheaper milk—even that is questionable—but will it be worth the cost of the local milk industry?

MR OSBORNE (10.18): There has been conflict and discontent within the ACT milk industry ever since local graziers began supplying the Canberra population and construction camps in 1910. Competition within the industry is not new, nor are inquiries into its structure and operation. The industry has been led by successive governments, both Commonwealth and territory, through several evolutions in structure. The repeating pattern has been one of market failure followed by government intervention.

However, a strong measure of stability came with the establishment of ACT Milk Authority in the early 1970s. Economic control of milk was vested in the authority, and complaints about the local market all but ceased with its introduction. While the industry enjoyed stability for nearly three decades, the late 1990s produced perhaps the greatest threat of all to its very existence. As members are aware, the industry has come under attack because it was based around a government-controlled monopoly. The Hilmer competition policy reforms, signed off on behalf of the ACT by the former Follett government, strongly opposed such government monopolies, which meant that the ACT milk authority had to go.

Further, attention was drawn to the Australian Constitution, which provides for free trade between states and territories. This meant that the Canberra market had to be opened up to interstate milk processing companies. While no interstate traders had made an attempt to enter the Canberra market since the late 1960s, it was only a matter of time before one did. This was proven true in mid-1998, when Woolworths supermarkets refused to sell Canberra milk and instead only stocked Pura and Woolworths brands. After just a few weeks, Woolworths recanted on their exclusion of Canberra milk products from its shelves.

In the meantime we saw the release of the Sheen report on the milk industry, which to no-one's real surprise supported full deregulation of the market. That report was nothing more than a complete sham, as has already been well documented by the experts in both economics and competition policy, and needs no further comment from me.

The writing on the wall having been seen as far back as early 1997, my concerns for our milk industry have been twofold: protecting local jobs and ensuring as much as possible a future for home deliveries. People sometimes wonder why such a fuss should be made about milk. Perhaps they forget that milk is worth around $26 million a year to the local economy and supports in the vicinity of 650 jobs, most of which are associated with the distribution side of the industry. Home deliveries of milk are not a convenient novelty as some critics have tried to make out. Rather, they are a very important part of life for those who are elderly, disabled, housebound or simply do not have ready access to a car.

In July last year Canberra had 73 milkos, while there were only 210 in all of New South Wales. Surely that statistic ought not to be regarded as a negative for us as the Minister for Urban Services had previously hinted but rather an indication of the high regard the people of Canberra have for the local industry.

I accept that the government has had its hands tied to some extent. Despite establishing a system and providing the cheapest milk in the country and a stable home delivery structure, its monopoly of the market has inevitably been torn down. With great reluctance, I supported legislation last year that began to dismantle the Milk Authority. However, I did so only because price setting of milk was being maintained in the short term and milkos were to be allowed to extend the range of products they could sell. This legislation also spells the end of price control by the independent pricing commissioner.

The ensuing months have seen the government provide funds to compensate a reduction in the number of milkos and auction off nearly half of their runs. I expect the government feels it has done what it can to help these vendors, but this is very much open to debate. I believe that when government changes the rules it has a moral obligation to deal with those who are affected. In this case, I simply do not accept that that has been done.

The situation the ACT milk industry is in right now shows what an absolute mirage competition policy is. In this instance the public benefit test has been a joke. It was predicted from as long ago as 1997 that, with deregulation, the price of milk would go up, as it has done in every other state with the advent of deregulation. Of course, our experts—and I use the word very loosely—knew differently. I would like to read two brief extracts from *Canberra Times* reports, the first from 22 December last year and the second from a couple of weeks ago. On 22 December 1999, under the headline "Milk prices tipped to fall", the *Canberra Times* said:

> Milk prices were tipped to plummet yesterday after Victorian dairy farmers voted overwhelmingly to deregulate the dairy industry…
>
> The managing director of Capitol Chilled Food, which markets Canberra Milk … said deregulation would result in fewer dairy farms but they would be bigger and more efficient.
>
> 'Prices will come down,' he said.
>
> Industry sources tipped prices to fall 15c to 20c a litre.

On 4 May 2000, under the headline "Milk likely to cost $1.50 from 1 July", it said:

> The cost of a litre of milk in the ACT was likely to increase from $1.22 to $1.50 from July 1, after deregulation. The prediction was made yesterday by the office manager of the Canberra Milk Vendors' Association, Angelo Barich …
>
> Mr Barich said that … milk in Queanbeyan was already $1.38 a litre and there was no reason to believe the ACT would not match that after deregulation. Then, with the 11c farmgate levy, the price would be $1.49, probably rounded to $1.50.

> The managing director of Capitol Chilled Foods … said it was too soon to know what the price of milk would be, but he expected a "slight increase" from July 1.

In just four months we have gone from a prediction that prices would plummet to there being an inevitable slight increase. Those of us who have been concerned about this very thing happening for some years now, only to have been continually fobbed off by the government, have just four words to say: "We told you so." While it is of little comfort to know that you have been right all along, today's realities are not going to change. The government has done something to help our milkos adjust to their new world, but I do not believe they have done enough. Should this legislation pass, some milkos will be substantially out of pocket, and under such circumstances it does not have my support.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.25), in reply: Let me correct the historical record. Mr Hargreaves and Ms Tucker both said that deregulation of the milk industry in the ACT began with the review of Dr Sheen in 1998. It did not.

Mr Moore: It began with Rosemary Follett.

MR HUMPHRIES: With respect to my colleague, it began not just with Rosemary Follett and the former ACT Labor government but also with the Keating federal Labor government. It was in 1994 that all Australian governments, including the Labor government of the ACT and the federal Labor government of Mr Keating, agreed to the national competition policy. That policy commits the ACT to review every single piece of legislation in existence in the territory, to consider the policy implications of its present form and to agree to move towards changing the legislation if the competition issues were not adequately addressed as it stood. That is provided for in the agreement. To enforce that process, the Commonwealth built in a series of annual payments to—

Mr Hargreaves: There is no connection—

MR HUMPHRIES: There is a connection.

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Hargreaves, you raised the question of protection earlier.

MR HUMPHRIES: We have an agreement that was entered into by the former government to review legislation, including the Milk Authority Act, and a commitment underpinned by annual payments made to the ACT to meet a program of review of legislation to consider its competition impacts. That is true. If Mr Hargreaves has any doubts, he should read the document that was agreed between the ACT Labor government and its colleagues in other states and the Commonwealth.

Unpalatable as it may be, it leaves the ACT in the position of having to carry through obligations that were made some years ago and picked up in a tangible form by this government in 1998 with the Sheen review. Members have spoken about Dr Sheen's review of the Milk Authority Act and Public Health (Dairy) Regulations. We are aware of the result of that review. I might also point out that the changes that have now been effected in the ACT reflect very closely the changes that have taken place in other

jurisdictions. I doubt that there is any place in Australia where you still have regulation of milk vending to people's homes in the way that it occurs here in the ACT. That is long gone.

Mr Osborne: Is that a bad thing?

MR HUMPHRIES: Perhaps not. I will come to Mr Osborne's question in a moment, but the point is that it is not as if we are an island crazily pursuing an obsessive agenda with competition because we think it is a good idea to do that here. It is because it is a national policy, underpinned by a national agreement, with national payments by the national government, and we are meeting our obligations under that process. The proof of that is that every other jurisdiction is going down much the same path. In the near future New South Wales will deregulate the farm gate prices. A similar decision has been made in Victoria in recent days. So deregulation of the milk industry is inevitable and it is happening.

Mr Osborne asked a moment ago, "Is that a good thing?" I have to put on the record quite bluntly that I am not sure whether it is a good thing or it is not. The fact is that the ACT has had a highly advantageous position in the past—

Mr Hargreaves: You would have to be blind to think it is.

MR HUMPHRIES: Mr Temporary Deputy Speaker, I did not interrupt what Mr Hargreaves had to say. I would ask for a little bit more—

MR TEMPORARY DEPUTY SPEAKER: I would not have thought Mr Hargreaves was interrupting you, Mr Minister. If he is, it is highly disorderly.

MR HUMPHRIES: There are a lot of questions about the milk deregulation process. The ACT has been in a very good position in the past because it has had the advantage of being able to buy surplus milk from New South Wales and Victoria at discounted prices. Milk came to the ACT on a discounted basis because of the structure of farm gate regulation in New South Wales and Victoria. With the ending of that regulation, the impact on ACT milk prices will no doubt be unfavourable.

There has also been a very traumatic period of change in the home vending milk market in the ACT. There is no doubt about that. I have no doubt that, in many suburbs in this city, the changes will not be good changes for those concerned—certainly for some of the vendors and probably also for many of the consumers of their products, although a great deal of that depends on how milk consumers adapt to new circumstances and how they demand from the vendors changed provision of services.

The overwhelming fact we need to understand about home milk vending in the ACT is that the industry has experienced problems not because of any particular decision governments have made in the last few years but because the changing lifestyles of Canberrans have made home milk purchasing much less popular than it was a few years ago. I do not recall the figures—I know they will be provided for me later on—but there has been a precipitous decline in the popularity of home milk purchases in this territory in the last five or six years. There are a number of factors in that, but standing out starkly against the others is the fact that lifestyles have changed and people do not buy milk

from vendors as much as they used to. These days families have two cars. Mum and Dad both go off and work. They often do things at odd hours. They might come and go at strange hours. The idea of being able to put your milk bottles out and collect them again and be sure of being able to operate the system that goes with home vending has changed. These days many fewer people buy their milk from vendors than before. That is the pressure on milk vending today.

The auction and the other changes to the market that happened earlier this year were based on a desire to provide an infusion of funds to allow vending to remain viable in the ACT. The ACT government infused $350,000-plus of public money into the process of giving that industry some basis for rationalising its numbers, allowing those who wanted to get out to do so and providing a basis for those who wished to continue runs to do so with viable runs. I do not pretend that the process has been entirely successful, but overall vendors who have picked up a number of other runs, albeit with some difficulty at the moment in delivery of the services—I concede that—at least are in the position of having a basis to provide an economically viable service in the future. I hope that that is the case.

I go back to the decline in delivery numbers. Something like 80 per cent of milk was delivered to people's homes a few years ago. That figure is now 20 per cent.

Mr Hargreaves: What was it two years ago?

MR HUMPHRIES: I do not know what it was two years ago, but the decline has been from 80 per cent to 20 per cent.

Mr Hargreaves: You should find out what it was.

MR HUMPHRIES: I will find out if you like, Mr Hargreaves. It has been a serious decline. The government, with all due respect, has not been responsible for that. It has been a change in the way people have purchased their milk.

The repeal of the Milk Authority Act is a logical final step, if only because, I would submit respectfully to the Assembly, there is really no alternative. All that is left of the authority—there is a shell at the moment—is a one-man board and one staff member, who will be transferred to another part of the public service on the winding up of the authority. The contracts for the bulk supply of milk expire on 30 June. There will be basically no income to the authority after 30 June. The only income it will receive is the collection of an annual trademark licence worth $40,000. That, of course, will go into consolidated revenue in the absence of a milk authority.

I do not come to this place arguing passionately that milk deregulation has been a wonderfully fulfilling exercise for the ACT. I can only say that it has been an inevitable exercise for the ACT and one which we are going to have to work out ways of adapting to, particularly as far as home vending is concerned and particularly when it comes to giving an opportunity for home vendors who remain in the industry to expand the number of products that they offer and the flexibility of service that they deliver. People basically get only milk products from vendors at the moment. Under deregulation there is no reason why vendors should not sell a range of other things to people's homes.

Vendors who survive in the industry are going to be the ones who pick up that challenge. I commend the bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PRIVILEGES—SELECT COMMITTEE
Rescission and Reconsideration of Orders of the Assembly—
Suspension of Standing and Temporary Orders

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.36): Mr Temporary Deputy Speaker, I move:

> That so much of the standing and temporary orders be suspended as would prevent a motion being moved to rescind the resolutions of the Assembly of earlier this day relating to Mr Humphries' amendment to Mr Corbell's motion appointing a Select Committee on Privileges, and the subsequent resolution amending the resolution and to reconsider the motion and the amendment moved by Mr Humphries forthwith.

Mr Berry: How does one reflect on a vote of the house?

MR HUMPHRIES: By substantive motion.

MR TEMPORARY DEPUTY SPEAKER: Order! It is up to the house.

MR HUMPHRIES: I have moved this motion simply because members would be aware that earlier today the amendment to Mr Corbell's motion on the select committee on privileges was resolved on an eight-all division.

Mr Wood: Yes. It was not the way you want it. It was not the way you want it.

MR HUMPHRIES: I heard you, Mr Wood.

Mr Wood: You are upset about it.

MR TEMPORARY DEPUTY SPEAKER: Order, Mr Wood! Mr Humphries has the call.

MR HUMPHRIES: It was an extremely important matter reflecting very heavily on the conduct of a minister, which was resolved by an equal vote of the Assembly, an eight-all vote. I think that is unsatisfactory, and I believe, in the absence of a member for that division, it would be appropriate to have the matter recommitted. I ask the Assembly to

support that course of action because in an Assembly of 17 it is appropriate to make sure that divisions on matters of great significance where a member's vote will be important reflect the opinions of those 17 members.

Mr Wood: So every time there are not 17 votes we are going to have another vote. Is that right?

MR TEMPORARY DEPUTY SPEAKER: Order! The house will make the determination.

MR HUMPHRIES: I commend that motion to the Assembly.

MR CORBELL (10.39): First of all, Mr Temporary Deputy Speaker, has a copy of Mr Humphries' motion been circulated to members? I do not have one on my desk.

MR TEMPORARY DEPUTY SPEAKER: I will take some advice on that.

Mr Moore: It is the standard suspension of standing orders motion.

MR CORBELL: Nevertheless, Mr Temporary Deputy Speaker, this is an absolutely outrageous move by the government. It is a move by the government to try to rectify a result which it is unhappy with. We had a long debate in this place today. It was a highly considered debate and all members, I stress all members, had the opportunity to participate.

Mr Wood: And to vote.

MR CORBELL: And to vote in that debate. No indication was given at any time that a member would be absent and that therefore the vote should not take place, which is the normal course of events. It is well known in this place that if members feel very strongly about an issue and they do wish to vote, they speak to usually the member proposing the motion and they say, "I would not like the motion put until I am available to vote on it." That is the usual custom and practice in this place. It may not be written down in the standing orders, indeed it is not, but that is the custom or practice. That is not what is being proposed here today. What is being proposed now is simply a deliberate attempt to change the outcome because the government lost.

Mr Humphries: And you would never do that, would you, Simon?

MR CORBELL: Mr Temporary Deputy Speaker, I would challenge the Attorney to highlight when the Labor Party has tried on a stunt like he is trying now, because, quite simply, it has not occurred.

Mr Humphries: Be careful. I think you have done it before.

MR CORBELL: It has not occurred. Mr Speaker, this is an outrageous attempt to overturn a vote of this Assembly after a considered and lengthy debate in which every member had the opportunity to speak and every member had the opportunity to vote. Members should not support this motion.

MR OSBORNE (10.41): Mr Speaker, I should explain my role in this. I was called away at about a quarter past five. There was a family situation so I had to leave rather urgently. I got a message from my office to Mr Humphries, but I have to apologise. I did not send a message to Mr Corbell because I did have to leave, so it was my fault. The message that I asked—

Mr Wood: There was no attempt to adjourn. No-one moved that the debate be adjourned. Why didn't you do it!

Mr Humphries: I asked Mr Berry about it and he refused to do it, Mr Wood.

MR OSBORNE: The message to Mr Humphries was that I would be back, but could we adjourn. Unfortunately, the message had not got through to Mr Rugendyke, so it is my fault and I do apologise for that. That is what has brought that about, Mr Speaker.

Members interjecting—

MR SPEAKER: Order! Mr Osborne has the floor.

MR OSBORNE: Of the two options, I would have supported—

Mr Wood: We can see how worried you are. Panic-stricken, by the sound of it. They are.

MR OSBORNE: Oh, them? I thought you were talking to me. Mr Speaker, of the options, I have a problem with the privileges committee, when the justice committee which I chair is currently looking at Mr Kaine's legislation in relation to the integrity commission, which is something that this type of issue would come under. I do not think setting up a privileges committee at this stage—

Members interjecting—

MR OSBORNE: Having said that, Mr Rugendyke has indicated that his preference was for it to go before the urban services committee. We are not attempting to stop some inquiry of some sort. It is just a question of where the inquiry would be undertaken. As I said, I apologise for the lack of communication from me, but it was a situation that I had to move on very quickly. I apologise for the confusion.

MR KAINE (10.43): Mr Speaker, I am not too sure what the purpose of Mr Osborne's speech was. He obviously was not speaking in terms of the standing orders. He was somehow excusing himself for not being here and not telling everybody that he was not going to be here. That is no justification for suspending standing orders.

I do not know what his circumstances were, but I do know he was not here, and I do know that if the government, knowing that he was not going to be here, wanted to do something about it, they had the option to adjourn the debate. They did not do so.

Mr Speaker, I would question very much the propriety of the government seeking now to change a vote simply because they could not control the floor at the time. Now they want to bring it back. Now that they have got the numbers back they want to resubmit the matter so that it will be resolved differently.

If that is not a reflection on an earlier vote of this place, I do not know what it is, and it is in contravention of our standing orders. I do not think the fact that Mr Osborne was not here at the time in any way affects the outcome of that vote. It needs a ruling on your part, Mr Speaker, as to whether what the government is seeking to do is contrary to the standing orders of this place.

MR MOORE (Minister for Health and Community Care) (10.45): Mr Speaker, perhaps you could give your ruling afterwards because we have a limited time here. The reason why Mr Osborne stood is quite clear. It was to explain that he was unable to vote. It is consistent with our seeking to suspend standing orders because he seeks to have a vote on this particular matter.

Mr Kaine: That has nothing to do with the suspension of standing orders.

MR MOORE: Mr Kaine, I understand your position. You say we should have sought to adjourn the debate at the time.

Mr Corbell: And you didn't.

MR MOORE: We did.

Mr Kaine: You had the opportunity.

Mr Corbell: You did not move the adjournment.

MR MOORE: We did, Mr Kaine. We discussed this and it was made very clear to us that we would not be able to get an adjournment.

Mr Corbell: You did not move the adjournment, Mr Moore. At no stage did you move the adjournment. At no stage whatsoever did you move the adjournment.

Mr Humphries: Because you said you wouldn't support it. That's why.

MR SPEAKER: The house will come to order. Stop behaving like a bunch of schoolchildren and come to order.

Mr Corbell: You were never going to do it. It is an absolutely outrageous proposition.

MR MOORE: Mr Speaker, I have a limited time to speak and I seek to have this person named if he continues that sort of business.

Mr Corbell: It's absolutely outrageous, Mr Moore, and you know it.

MR SPEAKER: Order, please!. Let's have a sensible, mature, adult discussion.

MR MOORE: Mr Speaker, the reality is that in a democratic process, if there is a vote that is considered by this house to have been taken and that vote of the 17 members of the Assembly is not accurate, we ought to redo it. In a democratic process, 17 members

ought to be able to have that opportunity. If indeed the outcome of the vote is the way it was before, then that is entirely appropriate. If the outcome of the vote—

Mr Corbell: This is an extraordinary precedent.

MR MOORE: It is not an extraordinary situation.

Mr Corbell: It is. It is absolutely extraordinary.

Mr Stanhope: It is a subversion of the democratic process.

MR MOORE: It is a reality. The reality is that sometimes there will be re-votes on things. I certainly remember, Mr Corbell—you may not, it may well have been before your time—when this Assembly passed legislation on medicinal cannabis as was mentioned before by Mr Humphries. A week later the vote was taken because some people had changed their mind and a different result occurred. I did not like it but I recognised the democratic process. It is exactly the same thing. Within a short time, a democratic process will allow 17 members to have their say on an amendment and then on a motion. That is what the suspension of standing orders is about, and it is a perfectly reasonable thing.

Mr Wood: That has to happen every time now, has it? There have to be 17 members here on every division?

MR MOORE: Mr Wood, if we had more cooperation between the government and the opposition we would have been able to manage an adjournment and this would not have happened. The real problem is the lack of cooperation. That is the real problem.

MR SPEAKER: Order! Settle down.

MR MOORE: I suggest you think about why we have such a lack of cooperation and who it is that is representing you to try to make these arrangements that are working so badly.

MR BERRY (10.48): Mr Speaker, I was approached by Mr Humphries. He said, "Would you agree with an adjournment?" and I said no. That is what you do when you don't agree with the other side. It is up to Mr Humphries then to go away and do whatever he wants to do from that point forward, as they do when the government has or has not got the numbers and it wants to test a vote. It goes away and moves in a certain direction. It is not up to me to gratify you with total agreement for every one of your proposals. I was aware that Mr Osborne had left the place. We don't engage in—

Mr Stanhope: You shouldn't—

MR SPEAKER: Order, Mr Stanhope! Stop talking over your colleague.

MR BERRY: It has been the case on other occasions that pairs have been arranged between the crossbenchers. I know there was an attempt by Mr Moore to arrange a pair which failed. What this is all about is this: the government just didn't have the numbers and now they are bleating about not even having made the attempt.

Mr Wood: You are panic stricken.

MR BERRY: You are panicking because one of your number is in serious trouble.

MR STANHOPE (Leader of the Opposition) (10.49): Mr Speaker, this really is a very significant principle we are toying with here. I sympathise with any member of this place who is called away, particularly if there is some family circumstance that the member needs to deal with. We all have sympathy for any member who is faced with those circumstances. But that is not what we are debating here. It is unfortunate. The fact is that this matter proceeded. This matter was put to the vote and it was resolved. It was resolved in accordance with the standing orders. It was resolved in accordance with the practice of this place. It was resolved democratically.

What is now being proposed is quite anti-democratic. It was put to the vote of this place. All of those members who were present and entitled to vote voted.

Mr Humphries: Seventeen members is democratic, not 16 members.

MR STANHOPE: There were 16 members. Every member who was present and entitled to vote voted, and a result was achieved. That is the democratic principle. The government did not like the result so the government is going to run it again. Is this what we are to do every day? Is this what we are to do on every day that there are not 17 members in this place? Is this what we are to do whenever we don't have 17 members, whenever a member of the crossbench is absent?

Mr Moore: If it is necessary.

MR STANHOPE: It is? If it is necessary we just keep recommitting votes until we think we might have the numbers.

Mr Moore: That's right.

MR STANHOPE: That's right, Mr Moore says; we just keep recommitting. We recommit a vote that we have already taken until we achieve the result we want; until we manage to protect one of our colleagues from the severe embarrassment which he obviously feels he is going to have to face.

Mr Moore: Or we look for more cooperation to avoid this sort of thing.

MR STANHOPE: Or we look for more cooperation, says Mr Moore, the most cooperative member of the Assembly, the member who bends over backwards every minute of the day to act in a cooperative and non-adversarial way with his 16 colleagues. We are now extending into the absolutely absurd—the absolute absurdity of Mr Moore suggesting that he is ever interested in working in a cooperative way.

Mr Humphries: Oh, come on Jon.

MR STANHOPE: No, it has to be said. He is the most adversarial, the most argumentative; the quickest hand in sleeves. Have you seen the speed with which

Mr Moore's hand reaches for the standing orders? It defies human vision most days—the speed with which he grabs the standing orders to seek to score some petty point against other people in this place.

Mr Moore: To use the rules.

Mr Humphries: The democratic rules.

MR STANHOPE: The democratic rules. That is what we are talking about, the democratic rules. Mr Moore will always apply the democratic rules as they suit him; and, when the democratic rules do not suit him, of course they are not relevant. We are talking here about a fundamental principle—a debate, a vote taken, a result achieved; a result that the government, unsuccessful in the debate and the argument, think they might have some opportunity of overturning. As Mr Kaine suggested, it is a serious reflection on a previous vote and it should not be permitted to happen.

MR SPEAKER: The time for debate is over. It is 15 minutes and the time is up.

Question put:

> That the motion (**Mr Humphries'**) be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

SUSPENSION OF STANDING ORDER 76

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

> That standing order 76 be suspended for the remainder of the sitting.

UNPARLIAMENTARY LANGUAGE

Mr Moore: Mr Speaker, I raise a point of order. Amongst his rather intemperate remarks, Mr Stanhope called out that I was a hypocrite. I think it appropriate that he act in the same way as I did when I was intemperate earlier today. I stood up and immediately withdrew that remark. I think it appropriate that he withdraw.

MR SPEAKER: The word "hypocrite" is unparliamentary.

Mr Stanhope: I did direct the comment at the entire bench across there, Mr Speaker. I am not sure that I actually was referring to anybody in particular. I am not sure that that does offend against the standing orders.

MR SPEAKER: No, we have been through this before. I will explain. If you call somebody a hypocrite we agreed that that had to be withdrawn. If you refer to people collectively as a hypocrite, you also have to withdraw it for the simple reason that we would have each member standing up and claiming that they have been called a hypocrite, and then seeking a withdrawal. So we consider it collectively as well as singularly. We went through it some time ago, Mr Stanhope. It is not a new rule.

Mr Stanhope: Thank you, Mr Speaker, for explaining that. I will withdraw, but it was interesting that when I did address the comment to the entire bench it was Mr Moore who self-identified.

Mr Hird: Well, I did too. I took exception to that.

MR SPEAKER: Order! Sit down. Excuse me, Mr Hird.

Mr Quinlan: I would like to join Mr Stanhope in withdrawing because I also called him a hypocrite. Maybe he did not hear me, but I did it. I withdraw.

Mr Hargreaves: I also would like to withdraw. I also called Mr Moore a hypocrite. I did that in a moment of frustration.

Mr Humphries: Wonderful. Got it off your chests, gentlemen?

Mr Hargreaves: This is called reconciliation, Gary. You wouldn't know what that was.

Mr Humphries: That was a rather unfair remark.

Mr Hargreaves: Yes, but not unparliamentary.

Mr Humphries: Calling into question members' support for reconciliation is a little bit much, Mr Speaker. It has been a matter of some bipartisanship on the part of this Assembly for some time, Mr Speaker.

Mr Berry: On a point of order, Mr Speaker: is the member on his feet moving a motion or not?

MR SPEAKER: I was about to draw attention to that fact, thank you, Mr Berry. Do you have a motion to move, Mr Humphries?

Mr Humphries: Well, I still take exception to the remark from Mr Hargreaves.

Mr Berry: I don't care whether he takes exception or not.

MR SPEAKER: I did not hear the comment, actually.

Mr Berry: I don't care whether he takes exception or not. I just want him to abide by the standing orders.

MR SPEAKER: I did not hear the comment.

Mr Humphries: Mr Speaker, three members took points of order on matters a moment ago. I am taking one as well.

MR SPEAKER: Yes. They withdrew.

Mr Humphries: If Mr Hargreaves does not wish to withdraw, Mr Speaker, that's fine. I just note that I think it is rather churlish. I think it is contrary to the spirit of bipartisanship on which we have approached the issue of reconciliation within this place.

Mr Hargreaves: You are a stranger to bipartisanship anyway.

Mr Humphries: On reconciliation I am not, Mr Hargreaves. I am sorry you had to meet that issue in that way, Mr Speaker, but all right, fine. If he wants to be petty, that is up to him, Mr Speaker.

PRIVILEGES—SELECT COMMITTEE
Rescission and Reconsideration of Orders of the Assembly

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.01): I move:

> That:
>
> (1) the orders of the Assembly earlier this day appointing a Select Committee on Privileges and the subsequent motion amending paragraph (2) (d) of that resolution:
>
> (2) the Assembly's vote on Mr Humphries' amendment to Mr Corbell's motion be rescinded; and
>
> (3) the Speaker forthwith propose the question—"That Mr Humphries' amendment to Mr Corbell's motion be agreed to".

Mr Speaker, this is a motion that effects the rescission of the decision earlier today.

MR CORBELL (11.02): Again I ask whether Mr Humphries is going to circulate his motion. I wish to move an amendment to it, but I cannot do so until I see the text of it. Mr Speaker, I do not know whether I need to seek leave to do this. I assume I do.

Mr Speaker, I foreshadow that I will be moving an amendment to Mr Humphries' motion to delete the word "forthwith" from paragraph (3) and replace it with the words "on the next day of sitting".

Mr Speaker, what is being proposed here is an absolutely outrageous abuse of the standing orders. Yes, it may be technically accurate, it may be technically consistent, but it is an abuse of the spirit of the standing orders. If this government wants to propose a motion which requests the Assembly to vote again on an issue which has been resolved after lengthy and considered debate in which every member has had the opportunity to participate, then they should do this place the courtesy of requiring that it be done on the next day of sitting. The reason for that is that instead of them rushing it through at 11 o'clock this evening they will be required to publicly justify outside this place why they believe the vote should be recommitted. If they have any strength and belief in what they are doing tonight they will have no problem arguing the case in the wider community.

It has already been accepted and communicated from this place that this Assembly has resolved to establish a select committee on privileges. If the government is unhappy with that and if the government wants the vote to be recommitted, they can try to do that, but they should go outside this place and they should argue why they want it recommitted. They should test it out there.

Attempting to rush it through, to push it through at 11 o'clock in the evening, is an absolutely outrageous move. It is an outrageous move designed no more than to simply subjugate the decision of the Assembly this evening. Mr Speaker, quite simply, this is something which this Assembly should not condone. This Assembly should say, "Have the strength of your conviction. Go outside this place, argue for the vote to be recommitted, and do it on the next day of sitting." Otherwise, Mr Speaker, they are simply cowards. They are cowards who are prepared to abuse the standing orders in order to get the result they want, and to do it in the middle of the night. Mr Speaker, that is the sort of approach we have had from this government this evening. I offer them an opportunity to argue their case in public, to defend their actions in public, and then for this Assembly to reconsider the matter.

The other point I would like to make, Mr Speaker, is that if we are going to recommit the vote it would be nice to hear those members who have not spoken and who obviously feel very strongly about this and want to vote on the motion. We would like them to stand up and explain why they are voting the way they want to vote. I move:

> Paragraph (3), omit "forthwith", substitute ", on the next day of sitting,".

MR MOORE (Minister for Health and Community Care) (11.06): Mr Speaker, there is a very simple explanation for why this is happening this evening. The explanation is that the government sought to avoid this problem by having the debate adjourned and it was made very clear to us that that was not going to happen. That is the reality of the situation. Had we had a more cooperative approach earlier today the matter would have been dealt with at 8 o'clock this evening, after we had come back, when all 17 members were here.

There is nothing undemocratic in this process. On the contrary, when 17 members are here and all 17 members have an opportunity to vote on it, they ought to be given that opportunity. Rushing the vote through earlier, not adjourning the matter, simply led to this situation. If the majority of members here wish to vote on this issue at this stage and wish to recommit it, that is democratic. That will also be a majority of members. What a majority of members in this place want gives you a democratic result.

Mr Berry: Dishonest, Michael.

MR MOORE: It is very simple. It is very straightforward. Even Mr Berry, who we know can look at something that is black and argue for three-quarters of a hour or longer that it is white, would understand that the democratic process here is very clearly set out by the majority of members. The majority of members have illustrated already that they wished to suspend standing orders to allow this motion to come on, so the process is democratic. It is appropriate that we recommit a vote and try to understand what the whole membership of the Assembly feels about the issue. That is what we are going to find out. If a member chooses to speak about it, so be it. I certainly chose to speak about it. I have done so, and you know that. If another member chooses not to speak, that is also their prerogative.

Mr Stanhope: Do you think the Democrats would put up with this?

Mr Berry: The Democrats? They would love him. The Democrats would love him. They like the GST and he likes the GST.

Mr Stanhope: The Democrats wouldn't put up with this.

MR MOORE: Mr Speaker, standing order 202 (e) provides for action against a member who persistently and wilfully disregards the authority of the chair. Mr Berry, in spite of the fact that you have asked again and again today for members not to interject like this—

Mr Berry: No, I was talking to Mr Stanhope.

MR SPEAKER: Keep your voice down.

MR MOORE: Mr Speaker, on a previous occasion, when members were niggling each other, one could understand the interjections. I have not at any stage through this speech needled the members of the opposition in any way, yet there has been constant interjection, particularly by Mr Berry, and I ask you to keep an eye on that.

Mr Speaker, this is an appropriate process. A majority of members of the Assembly have agreed that it is appropriate. An absolute majority of members have agreed to the suspension of standing orders. It is a democratic process and it is appropriate that we should proceed. We would not be in this embarrassing position for the opposition had Mr Berry agreed to a sensible adjournment earlier in the day.

MR BERRY (11.09): Mr Moore attempts to recreate history again. No adjournment was put, Mr Moore, as you might recall. I might have been feeling a bit tired at that time, but I didn't hear an adjournment motion being put. Mr Humphries approached me and said,

"Will you agree to an adjournment?" and I said no. The usual practice in this place if somebody disagrees with you is that you will put it to the house, but you decided on balance that that might not be worth while. That was a wise decision at the time because it was likely that you would lose.

Let me go to another issue. In this place we all know and understand that if you leave the place without a pair you loose your right to vote. Everybody understands that.

Mr Moore: At that time.

MR BERRY: That is as it is. Mr Speaker, Labor has pairing arrangements with the Liberals and we arrange pairs. If I have to leave this place when a vote is on and I have a pair, I understand that my vote is recognised, but if I leave without a pairing arrangement I understand that I give up that right. Mr Speaker, we do not pair with the crossbenchers traditionally. It has been the practice of the crossbenchers to arrange pairs amongst themselves.

I said before that Mr Moore attempted to arrange, one assumes on behalf of Mr Osborne, a pair in order that some arrangement might preserve the government's position. That failed. It is no good pointing the finger at me and no good pointing the finger at the crossbenchers either. Point the finger at yourself. Have a look in the mirror, if you are game.

Mr Speaker, it is the government that failed to keep control of the floor. Mr Osborne takes his chances when he leaves the place without arranging a pair. He throws away his right to vote. I am quite surprised that the government have raised the matter because it merely draws attention to their own competence or lack of it. I cannot understand why they try to point the finger at somebody else. This is in accordance with the standing orders. One can do these sorts of things, but whenever it happens we are going to make a noise about it and we are going to point to the lack of competence on that side of the chamber.

The issue is important to the government because one of their number has been wounded by this process. One would expect them to gather around him and try to protect him from whatever it is that faces him in the future. At one point it was a committee of this place to consider certain aspects of his behaviour, which do not need to be gone into in the context of this debate, and it was resolved, quite appropriately, that a certain model of committee would deal with it.

It appears that Mr Osborne does not think that that model is the appropriate model for this member to have his trials and tribulations examined by. He thinks it might be another committee model, the urban services committee model. In the scheme of things, I do not know what the government is trying to do here, except squirm, because, by the look of it, only the name of the committee has changed. The examination will be the same. Mr Smyth still has to have these trials and tribulations examined by somebody.

Mr Speaker, this is just a demonstration of how vulnerable the government is and how tetchy it is about most issues. In a week when a government should be doing well with a budget, it seems to have fallen apart in many respects, beginning with the terrible glitch

in the budget presentation, with Mr Moore's slush fund. He will never get over that. It has almost blown the budget out of the water.

MR SPEAKER: May I remind you of relevance, please, Mr Berry.

MR BERRY: I thank you for drawing attention to that, Mr Speaker. I almost slipped off the rails there for a moment. Mr Speaker, this is a silly way to deal with the matter. They just draw attention to their own weaknesses, and we are quite happy to help them.

MR WOOD (11.15): Mr Speaker, in our earlier years the Assembly was regarded in some quarters, you will recall, as a laughing-stock. That was because of the actions of some of the members. Most members in all the Assemblies since have worked hard to overcome that image, and I believe we have made great progress. Tonight, after taking all those steps forward, the Assembly, because of this motion, will be taking steps backwards. A disgraceful action is being taken. It is truly disgraceful. It will damage the reputation of this Assembly that can ill afford that damage. Beyond that, what it emphasises is how anxious the government is about this matter. The government, by this step, is acknowledging that it has a grave problem.

MS TUCKER (11.16): I would like to speak briefly about the issue of pairing in the Assembly. I was not approached this evening to see whether I would make a pair with Mr Osborne. I normally would do that. I think I always have, except on one occasion when Mr Rugendyke's office asked me to pair with him, but they had not given me notice and they were not clear on how I was voting or how he was voting. I cannot recall the exact details. Whether a pair is appropriate or not depends, obviously, on it being quite clear how the members are going to vote. As it turns out, it looks as though it would have been quite appropriate, and I could have paired with Mr Osborne, but I was not approached. Mr Moore talks about cooperation. He would know that I am open to those sorts of discussions, but for some reason he did not approach me.

I cannot understand why an adjournment motion was not put. The only thing I could assume was that the government assumed Mr Rugendyke would vote differently when he saw that his amendment did not get up. I feel that the process has been incredibly ill-thought out, basically, and I agree with Mr Wood that this is making the Assembly look extremely silly. We have a lot of business to get on with, so let us try to deal with it as quickly as possible.

MR QUINLAN (11.17): I did not participate in the debate earlier today. We were well represented without me later on. I want to ask this rhetorical question, for the record: does the government consider that Mr Smyth's position is such as to corrupt the processes of this place in order to accommodate a reprieve? I think the tactic that is being pulled right now is eloquence itself.

MR HARGREAVES (11.18): Mr Speaker, like Mr Quinlan, I did not speak in the original debate either. I left it to others to make the valid case. But I have to pick on something that Mr Osborne said earlier. He said that he wanted to have his vote on the issue, and I can understand him wanting to do that because it is a serious issue. But we know the rules. We know the rules when we come into this place. If we do not have a pair we lose the vote. That is the end of it.

Mr Osborne also said that he was concerned because of Mr Kaine's inquiry into integrity that has yet to be done. It is basically an ICAC-type thing. I remind Mr Osborne and Mr Rugendyke that we have an inquiry into policing services imminent, yet it was fine to support extra funding for a change in the way in which we deliver policing services in this city. I supported that too, but I did caution him that it was inappropriate that we support it now because we had an inquiry into it. I was not making any judgments about the wrongness or rightness of that proposal.

In fact I recall having a conversation with Mr Rugendyke about this. He will remember this, Mr Speaker. I said that whilst I support the initiative, perhaps it was not a wise idea because we had not had that police inquiry. The majority of members on my committee decided to endorse that. They said, "No, we will go ahead with that anyway." So, in the interests of compromising, I said, "Okay, fine, we will go with it," and I endorsed that part of the report. But now we are getting the opposite view. We have to hang off there because we have not got this integrity thing going yet. There is an inconsistency there.

I would have preferred in this instance that any inquiry into the propriety of conduct of members in this place be given at least a fair shot of being done independently. It would be nice if those people who were involved in receiving the evidence were not involved in the process; if there was a fresh approach, an independent approach, to it. I think that would have been the fairer thing to have done in this particular case.

I find it very difficult to see how some sort of prejudice of any type cannot be introduced into the process if this thing is referred to that particular standing committee because they have already heard all sides of the argument before. They have heard all the rhetoric here before and they have seen all the material before. I believe it would be in the best interests of the minister if this thing were done freshly by somebody else. If this is the only mechanism for doing that, then that is the way we should do it and give him a fair go. We would expect nothing less ourselves than a fair go. That is the fairest thing to do, to give him a fair shot at it.

I will finish on this, Mr Speaker. We all know the rules about pairing. We know what happens. As Mr Stanhope says, we sympathise when a member is called away for family reasons. Nobody would wish that, Mr Speaker. We actually sympathise with that. We don't make a big kerfuffle about it. What we are seeing here is not Mr Osborne saying, "I demand my right to have a vote." What we are seeing here is Mr Super-number-cruncher over here organising the vote to suit himself when it suits himself.

I implore members not to go with this. Mr Osborne ought to do the honourable thing here and recognise the fact that this is not the first time. Tonight is not the first time we have had an eight-all vote in this place. Neither is it the first time that we have had 16 members cast votes. That is nothing unusual, and the will of the Assembly spoke at that time.

If we make mistakes when we vote because things are confusing, fine, but there was nothing confusing about that debate. There was nothing confusing about that at all. If you make a mistake like that it is nothing short of stupidity, and I do not think that occurred this time. I am sure the votes were cast properly. If you go back and do your numbers you will see that those votes were inevitable, but they do not suit these people over here, so now we have this spurious nonsense. I implore Mr Osborne to reflect on that.

MR CORBELL: I seek leave to speak again.

Leave granted.

MR CORBELL: I thank members for their indulgence. Mr Speaker, I direct my comments through you to Mr Osborne because obviously it is his vote which is at the crux of this matter this evening. If it is the view of Mr Osborne that he wants to vote on this matter then I would ask him to support my amendment. The reason for that, Mr Speaker, is that, from Mr Osborne's own account, he was not present when I closed the debate. He had to leave the Assembly.

In closing the debate I made some very important comments about why the government's arguments were not valid. I am sure Mr Osborne had the opportunity in his office to hear the debate this morning, my speech and the government's reply, as well as the speeches of other members, but he did not have an opportunity to hear my closure of the debate.

If Mr Osborne is genuine, and I am sure he is genuine, in considering that this is an important matter on which he wishes to cast his vote, I would ask him that he cast that vote with the benefit of having the opportunity to discuss with me the reasons why the government's arguments are not correct. If he is going to vote this evening without the benefit of that then I really do worry about the process we are entering into. I simply ask Mr Osborne to support the amendment and give me the right to put the arguments to him about why the government's arguments are not valid. I think that is a fair, natural justice process. If he is convinced that the process we are embarking upon tonight needs to be pursued, let us at least allow the vote to take place on the next day of sitting. I would like to put to him the arguments he did not hear because he was not present when I closed the debate.

MR OSBORNE (11.26): I am a little confused, Mr Speaker. I am trying to find the motion that says there will not be any inquiry at all.

Mr Kaine: There isn't one.

MR OSBORNE: There isn't one. That is right. We are not debating whether there is an inquiry or there is not an inquiry. We are debating who does the inquiry. I did not hear Mr Corbell's closing debate, but Mr Rugendyke and I discussed it when I returned and he is quite adamant in his mind that there should be some sort of inquiry.

The issue is not whether we have an inquiry or not; it is where the inquiry is done. I think having it handled by the urban services committee is sensible. I said earlier that perhaps it was a long bow to draw, the one that I used earlier about the privileges committee, and I concede Mr Hargreaves' point on that. But we are not debating whether or not there is an inquiry into what happened; we are debating where it should go, and I am quite happy for it to go to the urban services committee, as is Mr Rugendyke.

Mr Corbell: Mr Speaker, I am going to have to seek leave again, because Mr Osborne obviously does not want to take that opportunity tonight and I would like leave to put my argument to him now.

Mr Humphries: I rise to take a point of order here. The motion that has been moved and is before the house is to allow the recommittal of the vote. We then have the recommittal of the vote. If Mr Corbell wants to speak again he can do so at that point. This is a motion to recommit the matter.

Mr Corbell: No, there is no opportunity to speak once this motion is passed.

Mr Humphries: You can seek leave at any point. We are debating a motion at the moment to have the matter reconsidered, so debating on the substance of the motion rather the question of whether we reconsider the motion is inappropriate. Wait until this is done and then do it.

MR CORBELL: I seek leave to speak again.

Leave granted.

MR CORBELL: I thank members.

Mr Humphries: May I speak again too?

MR CORBELL: You can seek leave. The issue that Mr Osborne needs to take into account in his vote this evening is this: is it appropriate to refer this matter to the standing committee on urban services rather than a select committee on privileges? The government has argued that it is inappropriate to refer the matter to a select committee on privileges because there may be problems with what will happen if a witness is called and will not appear. That was the argument put by Mr Moore.

Mr Rugendyke raised the concern that if the select committee on privileges called a witness to appear and the witness did not appear we possibly would be at a dead end and there would be a problem with the whole conduct of the select committee on privileges. Mr Speaker, exactly the same situation would take place if this matter were referred to the standing committee on urban services. If the standing committee on urban services requested Mr Gower to appear and he did not, we would have exactly the same quandary presented to us. The government's only argument for why it should be referred to the standing committee on urban services rather than a select committee was that there would be a problem with the process. My point, Mr Speaker, is that there would be a problem with the process regardless if a witness chose not to appear.

The only other argument that we have from the government is that the select committee on privileges is the wrong place to consider this. Our argument is that the standing committee on urban services is the wrong place to consider it because you only have to look at the terms of reference of the standing committee on urban services. There is nothing in the terms of reference for the standing committee on urban services that empowers it to look at the issue of a possible breach of privilege. I ask members to point out in the terms of reference of the standing committee on urban services where it says "to investigate matters of privilege". It does not say it. It does not say it anywhere. The motion I moved this morning was to inquire into a possible breach of privilege. Where should that go? It should go to a body formed for the explicit purpose of examining those matters.

Mr Moore himself, in the debate earlier today, said that a select committee on privileges is composed of members with parliamentary experience, with knowledge of the standing orders and with considerable background on the issue raised. He himself said that that was how an issue of a breach of privilege should be handled. If that is the government's view, as put forward by Mr Moore, then why are they opposed to referring it to a select committee on privileges? Surely it is the only place the matter can go.

The standing committee on urban services is not the appropriate forum. It does not have it in its terms of reference. What will the standing committee on urban services do? It will not have the level of advice that a select committee on privileges would have. It would not be able to focus solely on the matter.

Mr Speaker, it is appropriate that a select committee on privileges examine it. It is that simple. It is unfortunate that it appears the majority of members are now no longer prepared to accept that that should be the case.

MR OSBORNE: Mr Speaker, I seek leave to speak again.

Leave granted.

MR OSBORNE: I would have thought that this whole issue has been about evidence given before the urban services committee and I would have thought the most sensible place for the questions to be asked of Mr Gower again would be that same committee. I heard nothing from Mr Corbell that swayed me to support a select committee. I will be supporting it going to the urban services committee.

Mr Rugendyke has indicated that he feels there are some questions that should be asked of Mr Gower. I accept that and there will be an inquiry. It seems there is some dissent over where the inquiry is going to be undertaken, but, as I said, I heard nothing from Mr Corbell that warranted my supporting a select committee.

MR KAINE (11.33): Given that Mr Osborne was absent during much of the debate on this issue today and he says that he was persuaded by Mr Rugendyke to take the position that he is now adopting, I would like Mr Rugendyke to explain to us the compelling arguments that he used to persuade Mr Osborne to this viewpoint because he may persuade me. I would give leave for Mr Rugendyke to give me the same persuasive arguments that he used on Mr Osborne to see if I can be persuaded to his viewpoint also. My guess is that Mr Rugendyke will decline the offer. I would be interested to know what compelling arguments he used and I would like to hear them.

While I am on my feet, Mr Speaker, I foreshadow that I will be moving an amendment to Mr Humphries' motion in order to refer this matter to the justice committee because it is justice we are trying to talk about here, presumably. That is what they are concerned about over there—that their minister be given due justice. Mr Osborne referred to the fact that he already has my Commission for Integrity in Government Bill before his committee, and I suggest that that is the right committee to refer this matter to also. I would like to hear from Mr Rugendyke, particularly since he voted for the select committee.

MR STANHOPE (Leader of the Opposition) (11.34): I will speak very briefly in order to respond to the question Mr Osborne asked about why this matter should be referred back to the urban services committee and not to a committee of privileges. The question was posed to Mr Corbell. There is a very simple answer to that question because the issue at the heart of this is a question of privilege. We are considering a question of privilege. The privileges of the parliament should be jealously guarded. When there is any issue which raises or goes to the privileges of the parliament it is appropriate that it be considered by a privileges committee.

We are talking here about a privilege. This is a matter going to the heart of the privileges of the parliament. That is what the matter is about. The matter is about evidence to a committee of the parliament by the President of the Gungahlin Community Council that he was subjected to pressure. I saw him on WIN Television tonight saying in a clip of the hearing that he was subjected to pressure. That is the view that the people of Canberra saw tonight when this matter was reported. They saw the President of the Gungahlin Community Council saying that the substance of the evidence that he gave to that committee was given as a result of pressure applied by a minister. That is what I saw on my TV tonight. That goes to the heart of the privileges of this place. That evidence that was given to a parliamentary committee—

Mr Moore: If it was on TV it must have been right.

MR STANHOPE: It was a direct telecast of the witness.

Mr Corbell: It's in the bloody *Hansard*. Read the *Hansard*, Mr Moore.

MR STANHOPE: It was not only on television; it's in *Hansard*. It was a television recording of the witness giving evidence before the committee.

Mr Moore: That doesn't make it a matter of privilege.

MR SPEAKER: Order! Mr Stanhope has the floor.

MR STANHOPE: I am not suggesting it makes it a matter privilege. It needs to be investigated as a matter of privilege. That is what is being investigated. That is why a parliament forms a privileges committee—to investigate whether or not there has been a breach of the privileges of the parliament. The privileges of the parliament must be jealously guarded. They must be jealously guarded in order to ensure—

Mr Kaine: Except if you win government.

MR STANHOPE: Yes. They must be jealously guarded in order to ensure that the integrity of the parliamentary process is protected; that when a witness comes before the parliament they give evidence freely and of their own volition, and not subject to pressure from a minister to the effect that if they do not give evidence of a certain sort they will not get what they believe their community needs to function appropriately. That was the suggestion that needs to be investigated.

The appropriate committee in any parliament in Australia to investigate such a suggestion is a committee of privileges. It is what every other parliament does. It is a nonsense for that matter to be returned to the committee from whence the allegation came, to the same three people who took that evidence. To do what? To have the record changed? That does not do anything about the question of possible breach of privilege. It does not go to the question of privilege. It is just a question of a witness coming back before a committee and either confirming his evidence—one finds it very hard to understand on what basis he will not confirm this evidence—or resiling from his evidence and admitting that he misled the committee.

There are certain other issues around this particular evidence that also need to be investigated, namely, the responses that the minister has given through his press release—other responses have been given by other persons—and the involvement of the minister and others in relation to the apparent change of heart that the witness suffered. These matters go to questions of privilege. They go to questions of privilege of the parliament and they should be investigated by a committee of privileges. Any other suggestion really is derisory, does not protect the privileges of this place, and is a serious attack on the integrity of this institution.

Question put:

> That the amendment (**Mr Corbell's**) be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Question put:

> That the motion (**Mr Humphries'**) be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

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

> That the debate be adjourned.

The Assembly voted—

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

Question so resolved in the negative.

MR KAINE (11.49): I foreshadowed that I would move an amendment to Mr Humphries' amendment. I move:

> Omit the words "the Standing Committee on Planning and Urban Services", substitute "the Standing Committee on Justice and Community Safety".

Mr Speaker, I do not think there is much merit in referring this matter back to the same committee where the events occurred. Different people, without the direct background that the members of the urban services committee have, are needed to take on this matter. If it is going to be looked at at all it can be looked at objectively by people who have not been previously involved. There is some justification for sending it to the justice committee for that purpose.

MR CORBELL (11.50): I move:

> That the debate be adjourned.

MR SPEAKER: I would remind members of standing order 202.

Mr Wood: Don't talk about standing orders tonight.

MR SPEAKER: You will not have a chance if you keep this up. I remind them particularly of standing order 202 (a). A division is required. I think all members are present.

Mr Berry: Why are you drawing attention to standing order 202 (a), Mr Speaker?

MR SPEAKER: I will read it to you. It says:

> (a) persistently and wilfully obstructed the business of the Assembly;—

Mr Berry: I raise a point of order, Mr Speaker.

MR SPEAKER: I am about to call a division. Sit down.

Question put.

The Assembly voted—

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

Question so resolved in the negative.

Amendment (**Mr Kaine's**) to Mr Humphries' amendment negatived.

MR BERRY (11.53): Mr Speaker, it is appropriate to go over—

Mr Moore: Mr Speaker, I move:

> That the question be now put.

Members interjecting—

MR SPEAKER: Order! I will not accept that motion if you wish to speak, Mr Berry.

MR BERRY: Oh dear me.

Mr Moore: Mr Speaker, we have had a long debate on this issue already.

Mr Corbell: Sit down, Michael.

Mr Moore: A point of order—

Members interjecting—

MR SPEAKER: Order! The house will come to order. I have ruled that I will not accept the motion for the gag at the moment. It is true that we have had considerable debate on the matter earlier this day, but not at this point. I call Mr Berry.

Mr Moore: I draw your attention to standing order 62, Mr Speaker.

Mr Stanhope: Name him, Mr Speaker. He is being quite wilful.

Members interjecting—

MR BERRY: What are you doing now? Is this another point of order? You usually get up on your feet when you—

MR SPEAKER: Order! Settle down everybody. It is six minutes to 12.

MR BERRY: Thank you, Mr Speaker.

Members interjecting—

MR SPEAKER: Order! Will everybody else but Mr Berry please remain silent.

MR BERRY: Mr Speaker, I merely want to go over the important issues which face us on this question. This is an issue which will go on the record and demonstrate how ludicrous a government can be when it finds itself in a corner. Over the last couple of weeks, today and on television tonight an issue in relation to evidence given to a committee has been raised which draws this place into some question so far as our constituents are concerned.

Today we supported a motion, absent one member, and the motion before the house prevailed and a decision was made. I know it is a member's right not to be here. You can take off any time. You do not have to be here, subject to the standing orders. But it does become more than a little ludicrous when we have to recommit the matter because the outcome does not suit.

Mr Quinlan drew on an important point earlier—that the government is prepared, in effect, to ridicule itself on this matter because it feels so vulnerable in relation to

Mr Smyth. If the government wants to ridicule itself it is not for the opposition to prevent it from doing so, but it is up to us to try to bring some commonsense back into the argument when these sorts of crazy developments descend upon us.

Mr Speaker, this move by the government is completely in accordance with the standing orders but it demonstrates a level of frustration and fear from the government that I have never seen before. From the opposition's point of view one would get some joy out of that—to see the whites of the eyes of those opposite when they are in so much trouble over an issue which is of general concern, and an issue which in any other parliament in Australia would cause politicians attending to make sure that the matter was considered in the most formal and traditional way to ensure that the parliament was not drawn into disrepute.

Mr Moore: I take a point of order, Mr Speaker. Right through this discussion Mr Berry has been breaching three standing orders. Standing order 52—

Mr Corbell: According to whose ruling, Mr Moore? Yours or the Speaker's?

MR SPEAKER: Just a moment, please.

Mr Moore: I am taking a point of order on three grounds, Mr Corbell, if you give me time. Mr Speaker, standing order 52, standing order 58 and standing order 62. Standing order 52 because he has constantly been reflecting on the vote of the Assembly we have just had, standing order 58 because he digressed from the question under discussion and has been talking instead about the previous vote, and standing order 62 because of tedious repetition of what he said just a little while ago. It was for this reason before that I moved that the question be put. Mr Speaker, I asked you to draw attention to staying with the debate.

MR BERRY: Mr Speaker, if you accept that argument I would have to go with a proposition to the Administration and Procedure Committee for a new standing order that members are prohibited from speaking in a different way and upsetting the government's position. I think the Administration and Procedure Committee would throw me out on that score.

MR SPEAKER: Relevance.

MR BERRY: Similarly, that point of order should be thrown out.

MR SPEAKER: Let us get back to the topic, please, Mr Berry. I do not uphold the point of order at this point, but I want you to get back to the topic and stay on it.

MR BERRY: Indeed, Mr Speaker. My understanding of dealing with these matters of privilege and the matter that faces us would suggest to me that it would be far better for this parliament to have a committee especially set up, once off, to deal with the issue. I think to lay this sort of a job on another committee is quite out of order. I cannot say it is out of order in the formal sense, but I think it is out of order in the moral sense because it does suggest that this matter of importance does not rate significantly enough for this parliament to push it off to a committee constructed so as to deal with this issue and to inform the community that we treat matters of privilege seriously.

I do not want to go to the issue at large other than to say that if, as is suggested, it is a matter of tampering with witnesses, that is a serious matter. It is a matter which ought to be seen in the community as a matter we take seriously. If we do take it seriously, then an appropriate committee is a committee properly established for the specific purpose. If not, I think we treat the matter lightly.

The government thinks it is less significant and a winding back of the seriousness of the issue if it sends it off to the urban services committee. In the formal sense it is hard to make out a case for that, but at least, in presentational terms, it looks as though we are treating it seriously if we construct a committee especially to deal with the matter. The community has to have confidence that when the committees of this place are dealing with them as witnesses, or dealing with other people as witnesses, or members of this place as people who are giving evidence, they take their job seriously and that formal and proper means of dealing with witnesses will prevail.

There is, at this point, no more than a charge on foot, if I can describe it in that way, which should cause a great many of those people in the community who are concerned about proper conduct of this Assembly. It should convince them, and I would convince them, that there is a need to take the matter seriously. I think we undermine our own standing if we do not give this matter the prominence that it deserves.

I declare my interest in this because I would be the Labor Party's nominee and I am very careful about what I say in relation to the matter. I do not mind declaring my interest. That is not something that I am concerned about. It is a matter that I take very seriously. The Labor Party has entrusted me to take on this job. It would be a job I would treat very seriously and it would be treated in a way which I hope will bring credit to the Assembly rather than discredit.

There is nothing particular in this for me except a lot of hard work, I can tell you. It is not something that I would particularly enjoy, given that we are now going into the budget process, but, for my part, if this matter is going to be dealt with it ought to be dealt with in a manner which shows that this Assembly treats privilege seriously and treats seriously allegations about certain members or ministers handling of witnesses. *(Extension of time granted.)* Witness tampering is regarded generally as an appalling charge to make against anybody. It is not fair for this not to be treated in a proper way. If we shrink back from the opportunity to establish the committee, which we have already established in effect, then I think we do ourselves a disservice.

Friday, 26 May 2000

MR CORBELL (12.04 am): The proposal put by Mr Humphries is completely inappropriate. It is inappropriate because, first of all, his amendment removes the words in my original motion which require that the matter be examined as a matter of privilege. The government is not prepared to accept that it is a matter of privilege. The government has not been able to substantiate, in any way, its claim that this is the case.

House of Representatives Practice clearly states that any attempt to improperly influence a witness who is to give evidence or has given evidence before a committee or the house itself, so that obviously includes committees in this Assembly, is considered to be

a breach of privilege. It is considered to be a breach of privilege when it is done through threat, coercion and force, amongst other things.

Mr Speaker, I had the dictionary out earlier and I looked at the definition of "pressure". That was the word used by Mr Gower. He said he was pressured. Interestingly, in the definition of "pressure", the word "influence" comes up. "Influence" is used as a description of the term "pressure". Mr Gower was pressured. He said so on the record in *Hansard*. It is that simple. He said it. I did not use the word. No other member used the word. Mr Gower used the word.

Mr Moore: We heard all this a million times today. How long are we going to put up with standing order 62?

MR CORBELL: Mr Speaker, are you going to call Mr Moore to order?

Mr Humphries: Mr Speaker, I will take a point of order under standing order 62. We have heard every word of this already today, at least three times. Tedious repetition has some limits at some point.

MR SPEAKER: Yes. We have recommitted the question, however.

MR CORBELL: That is right.

Mr Moore: That doesn't change standing order 62.

MR CORBELL: The question is that Mr Humphries' amendment be agreed to and we are entitled to have that debate, Mr Speaker.

MR SPEAKER: Correct.

MR CORBELL: Whether the government likes it or not.

Mr Humphries: Mr Speaker, on the point of order: recommitting the vote does not mean—

MR CORBELL: No, you are recommitting the question.

Mr Humphries: Okay, recommitting the question does not mean that the entire issue has to be re-enacted for the benefit of someone who missed the first version of it. The arguments are still on *Hansard* and members heard the arguments on that when they were first issued on the first occasion. Why we need to go through them all again is a matter beyond me.

MR CORBELL: Mr Osborne didn't. He wasn't here.

Mr Humphries: He was here for most of the debate.

MR SPEAKER: That was not the advice I received, however, Mr Humphries. We have in fact recommitted the question.

Mr Moore: On the point of order, Mr Speaker, standing order 62 says this:

> Having called the attention of the Assembly to the conduct of a Member who persists in irrelevance or tedious repetition of the Member's own arguments or of the arguments used by other members in debate,—

it does not say in this debate; it says in debate—

> the Speaker may direct the Member to cease speaking.

Mr Corbell just indicated that it was the Assembly's will. I am just clarifying for him that, no, it is the Speaker's prerogative to rule on matters.

Mr Berry: Mr Moore, Mr Humphries, Mr Smyth.

MR SPEAKER: Put that down, Mr Berry. You know that signs are not allowed in this place.

MR CORBELL: Mr Speaker, may I continue my remarks?

Mr Moore: If they are not tedious and repetitive.

Mr Hargreaves: He was not talking to you. He was asking the Speaker.

MR CORBELL: I am asking the Speaker. May I continue my remarks, Mr Speaker?

MR SPEAKER: I am sorry but my advice is that we have recommitted this question. If we are here until 4 o'clock in the morning, then so be it.

MR CORBELL: So we have, Mr Speaker, very clearly, an inference that pressure was applied on a witness. *House of Representatives Practice* states that that constitutes a breach of privilege. As I said earlier when we first put this question to the Assembly, the point that we made in raising this matter is not to determine whether or not there has been a breach of privilege. That is not the question. The question is that it appears that there may have been a breach of privilege and it should be investigated as a possible breach of privilege.

Mr Humphries' amendment does not ask the standing committee on urban services to consider it as a possible breach of privilege. The inquiry is quite different from the one proposed by me. Members should be clear on that. It is not an inquiry into a breach of privilege as proposed by me.

Mr Rugendyke and Mr Osborne have both said that they believe it is simply a matter of who inquires. It is not. The amendment moved by Mr Humphries changes the nature of the inquiry as well as where the inquiry takes place. So it is not as straightforward as both Mr Osborne and Mr Rugendyke pointed out in their comments in an earlier debate today.

Mr Speaker, the fact is that this is a possible breach of privilege. No reasonable reading of *House of Representatives Practice* can determine otherwise. Because it is an apparent

possible breach of privilege, there is only one forum where that should take place and that should be a select committee on privileges.

The Standing Committee on Planning and Urban Services is not the appropriate forum. The Standing Committee on Planning and Urban Services does not have as its terms of reference the examination of possible breaches of privilege, Mr Speaker. The Standing Committee on Planning and Urban Services does not have the expertise to consider a possible breach of privilege.

Mr Speaker, what the government would like the Assembly to believe this evening is that this is simply a matter of a clarification; that this is just about clarification. Mr Speaker, it is not just about clarification. I have been in this place now for just over three years. I have never seen a witness state so explicitly, indeed, in any way, that he was pressured by a minister to change his view, and that his organisation was pressured by a minister to change their view. I have never seen it before, Mr Speaker.

Mr Moore: You should have been here for the AID's Action Council and seen how it really worked.

MR SPEAKER: Order! Mr Corbell has the call, thank you.

MR CORBELL: Thank you, Mr Speaker. I would hope that we will never see it again. The fact is that we have seen it on the record in the *Hansard* of the Standing Committee on Planning and Urban Services. We have seen it and we cannot ignore what was said. We cannot pretend that just because Mr Gower issued another statement which contradicted everything that he said in the *Hansard* that this is no longer a possible breach of privilege. We cannot draw that assumption.

What Mr Gower said on the public record, in *Hansard,* was required to be truthful, as is required of every other witness. We expect evidence given to Assembly committees to be truthful, and we have to determine, Mr Speaker, that what he said to the standing committee was truthful because that is what he was required to be. No-one is suggesting that Mr Gower said something misleading. No-one from the other side has said that. So, if it was truthful, if it was not misleading, then it was a clear allegation of pressure by a minister on a witness in relation to the evidence to be given to an Assembly inquiry. It constitutes a possible breach of privilege. The government claims it is not, but it is for this Assembly to decide whether or not it was a possible breach of privilege. *(Extension of time granted.)* I thank members. Mr Speaker, it is a possible breach of privilege, not a definite breach, not a certain one; but it is a possible breach of privilege.

Mr Speaker, if we were asking simply for a clarification of what Mr Gower said then maybe the government has a case, but that is not what we are asking for and it is not what this Assembly should be asking for, because what he has alleged falls into the category of an attempt to improperly influence a witness. It was an attempt to improperly influence a witness.

I am sure Mr Gower is not familiar with the standing orders of this place, nor with *House of Representatives Practice,* but what he stated of what occurred was an attempt to improperly influence a witness. For that reason it must be investigated as a possible

breach of privilege. It is explicit and stark evidence and it is a straightforward proposition to this place. Mr Humphries' amendment should not be accepted.

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

That the question be now put.

The Assembly voted—

Ayes, 10	Noes, 7
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Quinlan
Mr Kaine	Mr Stanhope
Mr Moore	Ms Tucker
Mr Osborne	Mr Wood
Mr Rugendyke	
Mr Smyth	
Mr Stefaniak	

Question so resolved in the affirmative.

Question put:

That the amendment (**Mr Humphries'**) be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Motion, as amended, agreed to.

POSTPONEMENT OF ORDERS OF THE DAY

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

> That orders of the day Nos 8 and 9, Executive business, relating to the Health and Community Care Legislation Amendment Bill 2000 and the Transplantation and Anatomy Amendment Bill 2000, be postponed until a later hour this day.

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTIONS) BILL 2000

Debate resumed from 2 March 2000, on motion by **Mr Moore**:

> That this bill be agreed to in principle.

MR WOOD (12.23 am): The opposition will agree with this bill. It seems designed to cater for any Olympic teams that may come here and bring with them professional people, doctors and perhaps others, who may not be licensed to practise in the ACT. This bill would enable some of them to practise. It asks a question for me: what has happened in the past? My memory tells me the Bruce Stadium was built for the world athletic games.

Mr Hird: The Pan-Pacific Games.

MR WOOD: No. We had the world championships here one year. Teams would have brought doctors with them, but at that time presumably there was no legislation to cover them. If we are now intent on crossing the t's and dotting the i's, we take this measure. It seems to the opposition to be entirely logical, so we will support it. I understand Mr Moore is to move amendments. We thank him for that, because they were initiated through Mr Stanhope's office. We are pleased that we can work in that way.

MR MOORE (Minister for Health and Community Care) (12.24 am), in reply: Mr Speaker, I would like to say thank you to members for their support of this legislation. I have a couple of amendments. I will speak to those in the detail stage.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR MOORE (Minister for Health and Community Care) (12.25 am): Mr Speaker, I seek leave to move two amendments circulated in my name together.

Leave granted.

MR MOORE: I move:

> Clause 3, page 2, line 28, definition of ***restricted substance***, omit the definition, substitute the following definition:
>
> "***restricted substance*** means—
>
> (a) a Schedule 4 substance for the *Poisons and Drugs Act 1978*, subsection 3 (3); or
>
> (b) a restricted substance for the *Poisons Act 1933*, subsection 5 (1); or
>
> (c) a drug of dependence for the *Drugs of Dependence Act 1989*, subsection 3 (1).".
>
> Clause 8, page 4, line 23, subclause (3), omit the subsection, substitute the following subsection:
>
> "**(3)** This section does not authorise a visiting health professional to possess, or supply to a visitor, a prohibited substance for the *Drugs of Dependence Act 1989*, subsection 3 (1).".

I present a supplementary explanatory memorandum. These amendments arise out of an examination of the bill by Mr Stanhope's office. I would like to thank him and his advisers for their constructive contribution. The amendment to clause 3 is a minor technical amendment to the definition of a restricted substance. Examination of this bill found that the definition of a restricted substance did not allow for the inclusion of substances that are restricted under poisons legislation in the ACT. In the policy context of this legislation, it is important that the term "restricted substances" include certain substances restricted by the operation of the Drugs of Dependence Act 1989, the Poisons Act 1933 and the Poisons and Drugs Act 1978.

In its application, this amendment provides that appropriately authorised visiting health professionals may issue prescriptions for pharmaceuticals that are listed under schedule 1 in the Drugs of Dependence Regulation 1993. Appropriately authorised visiting health professionals may also prescribe schedule 4 prescription-only restricted substances referred to within the Drugs and Poisons Standard.

The amendment to subclause 8(3) make it abundantly clear that the health services authorised by this legislation do not include possession or the supply to a visitor of a prohibitive substance. A prohibitive substance is a substance referred to in the Drugs of Dependence Act 1989 and set out in schedule 2 of the Drugs of Dependence Regulations. Prohibited drugs include such substances as heroin, cannabis, ecstasy and so on.

In specific circumstances, such as research and education, where special approval has been provided, a locally registered practitioner may obtain permission to possess or use a prohibited substance. This amendment will prohibit a visiting health professional from gaining approval to possess or supply to a visitor a prohibited substance. In no circumstances, therefore, will it be possible for a visiting health professional to lawfully possess or supply a prohibited substance.

I commend these amendments to the Assembly as an additional means to ensure visiting health professionals and those who administer the legislation are clear with respect to their conduct and the application of the law. Once again, I thank Mr Stanhope and his office for their assistance in this matter.

Amendments agreed to.

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

Bill, as amended, agreed to.

POSTPONEMENT OF ORDERS OF THE DAY

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

> That orders of the day Nos 11 to 12, Executive business, relating to the Commissioner for the Environment Bill 2000, the Land (Planning and Environment) Amendment Bill 2000 and the Rates and Land Tax Amendment Bill 2000, be postponed until a later hour this day.

RATES AND LAND TAX AMENDMENT BILL 2000 (NO 2)

Debate resumed from 11 May 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (12.28 am): This is a standard companion bill to the budget, setting the rates for the year. It continues this government's philosophy of effectively flattening rates across various areas in town, reducing the impact of differential land values, which is something the ALP does not particularly agree with. I notice that this year the government has set a target, at least on paper, to raise about 40 per cent of rates income by the fixed charge. Please correct me, Treasurer, if I am wrong.

Mr Humphries: No, I would not do that. That is rude.

MR QUINLAN: Back of the envelop, with the paucity of information I have on blocks, would we be talking about $300 to $320 per residence?

Mr Humphries: For the fixed charge?

MR QUINLAN: Yes.

Mr Humphries: It will be $280 this coming year.

MR QUINLAN: I know what the charge is. The fixed charge has increased to $280. It is has been increasing by $20 a year. It has increased by about 20 per cent over the last four or five years. The fixed charge increases at $20 a year, and has done for the last four or five years. Is that right?

Mr Humphries: No, that is not the case. We set a fixed charge a couple of years ago.

Mr Moore: About two or three years ago.

Ms Tucker: And it has been increased.

Mr Moore: And it has been increased since then, yes, but it is a relatively new system.

MR QUINLAN: It is not that new, Mr Moore. It is new to Mr Humphries, obviously, but it is not new to some.

Mr Humphries: It started at about $240.

MR QUINLAN: It started at $220.

Mr Humphries: If you insist. If you know the answer, why did you ask me?

MR QUINLAN: The answer I am looking for in the conclusion to this debate is the figure which the government aspires to reach.

Mr Humphries: We have told you—$320.

MR QUINLAN: No, you did not. You told us 40 per cent of gross revenue. The $320 is my calculation. Is that right?

Mr Humphries: Yes. We said that.

MR QUINLAN: I do not remember you saying that. I was going to come to that next. We do not favour the regressive increase of the fixed charge at the expense of the actual valuation factor, which shows a decrease of about 17 per cent this year. We have a regressive slant to the way rates are being applied.

An argument put forward to favour the flatly added tax is that it protects longstanding residents in particular areas against increasing land values as there is redevelopment around them and as city services approach them by sheer development and growth. I have had a quick look at this, and all I wish to put on record is that the ALP, in government, would seek to make the rate system a little more sophisticated to protect those people, while still maintaining progressive taxation. I have mentioned previously—

Ms Carnell: Good luck. That is all I can say.

Mr Humphries: Fat chance, I reckon.

MR QUINLAN: You only have to think laterally. It might be a new experience, but you could do that.

Mr Humphries: Tell us how you would do it. Explain how to do it.

MR QUINLAN: One suggestion I put on the table off the top of my head that I will have to field test or trial is an extended ownership rebate. You charge the higher rate, but if you have been there for a while or it is an undevelopment rebate—those sorts of rebates where you say that if you have been in an area for a long time—

Ms Carnell: I can show you the modelling we did on that and what happened.

MR QUINLAN: I would be very pleased to see it. The formula we have has been manipulated to defeat the effects of the formula itself. It is going to dissolve to an absurdity in the long term. We do not support the increase in rates. We do not support the regressive change to the formula, and we expect to get rolled on the issue.

MS TUCKER (12.34 am): I note that this bill adjusts the rating factors to increase overall rates revenue by 2.5 per cent, and I think it is reasonable that rates revenue should rise over time to match increases in the consumer price index. However, I am concerned about the impacts of these rates increases on individual householders and about ensuring that rates increases are equitable. In particular, I am concerned, as Mr Quinlan is, that the fixed charge component of the rates is increasing faster than the overall rates amount. While overall rates revenue has increased by 2.5 per cent, the fixed charge has been increased by nearly 8 per cent. There was a similar increase in the previous financial year.

I note the government's intention to increase the fixed charge to 40 per cent of the total annual rates revenue. What this means is that the progressive nature of the rates charge and the differential between the bottom and the top rates are being eroded, and this is a retrograde step. The government just says that this is about applying the user-pays principle and distributing costs more evenly across property owners. This is okay up to a point, but the government seems to forget that the user-pays principle has to be balanced against the principles of social justice. The government is not taking into account people's ability to pay and the principle that those who have a greater ability to pay should pay more to make up for those who cannot pay.

There has been a longstanding principle with rates that those property owners who can afford to live on highly valued land should pay more than those people in low-valued properties. The government is steadily eroding this principle through increasing the fixed rates charge so that over time rates charges will be reduced to a narrower band which will proportionately increase the rates for lower income earners and save the wealthy landowners. This is an inequitable approach to raising rates revenue, but it seems to be consistent with this government's position on their version of social capital.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.36 am), in reply: Mr Speaker, I thank members for their support for this legislation. The legislation will give us a projected outcome for rates revenue for the next financial year, which is measured to be the amount of rates collected this year plus the inflation rate projected for next year. That is approximately right.

I note Mr Quinlan's aspiration to reform the system. I wish him great luck in that endeavour, but I make a prediction. If we ever get a Labor government and Mr Quinlan is part of it and is looking after the rates system, I predict that he will announce only minor changes, if any, to the rates system. I predict that he will reduce the fixed charge very marginally, if at all, because at the end of the day there are too many volatile factors involved in allowing the fixed charge to be lower than it is at approximately the present level. No government wants to be in a position of having huge fluctuations in rates because of fluctuations in land prices. That is the modest prediction I make as I gaze into my crystal ball. I thank members for their support for the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Death of Mr Kenneth James Smyth

MR STEFANIAK (Minister for Education) (12.38 am): Mr Speaker, a couple of weeks ago a man who contributed greatly to ACT education died at the age of 91. He was the foundation principal of Narrabundah High School, which became Narrabundah College. Kenneth James Smyth, or Jim Smyth as he was known, was a longstanding Canberra resident after he came to Narrabundah in 1961. Sadly, some two days after he died his wife, Kath, also died. He is survived by a number of family, including Peter Smyth, who is a well-known solicitor in Canberra.

Jim Smyth grew up in northern New South Wales. He went through the Catholic school system and was particularly impressed by a teacher, a nun, who steered him into teaching. He went into the government system and became principal of Wagga High School before he came to Narrabundah. He established the school from nothing. He was a very firm, fair and friendly headmaster who had a big influence on that school, which he left in 1967 to go to Campbell High School.

He then became an educator in Papua New Guinea, establishing schools there and doing a lot of work along with his wife. He went to the Catholic education system after that and was largely responsible for establishing St Francis Xavier College at Florey and also Padua. He continued to be active right up until his death. He was diagnosed with cancer about two months before he died.

Last year, when he was 90, he was still known to walk from Chapman to Woden Plaza. He was quite a remarkable man, a man who had a very significant influence on education, especially in the territory. He came here as principal of Narrabundah, then went to Campbell and later to the Catholic Education Office. Many teachers who taught under him still serve in both our systems. He will be very sadly missed.

I would like to formally pass on my condolences to the family on Jim’s death and the death of his wife, Kathleen, who was a very fine actress in her own right. She and Jim met in Wagga and married there. She was an excellent singer and actress and continued to be involved in many charities and theatrical productions in the territory when both of them lived here.

Dental Health Program—Waiting Times

MR MOORE (Minister for Health and Community Care) (12.41 am): Mr Speaker, I table a response to a question I took on notice from Ms Tucker during question time on 29 February. I apologise that it has taken me so long to answer. I had the answer and then misplaced it for some time. I table the answer, and I will provide a copy to Ms Tucker.

Mr Stephen Forshaw

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.42 am), in reply: Mr Speaker, I want to close the debate tonight by giving a valedictory, not for a person who is dead but for a person who is merely departing the halls of this Assembly and Canberra. That person is my senior adviser, Stephen Forshaw, who is in the gallery tonight. Members who have been in this place for a time will know that Stephen has been my senior minder for many years now. He came to me in opposition and has been with me throughout the time we have spent in government.

Mr Quinlan: Retraining and rehabilitation required.

MR HUMPHRIES: For me, that could well be required.

Mr Moore: He did not write this speech, did he?

MR HUMPHRIES: He did not write this speech, I can assure you. Stephen Forshaw came to me from another member of this place, Mr Kaine. When Mr Kaine was removed from the position of Leader of the Opposition in 1993, Stephen was on his staff. I decided that I would take a gamble with one of Mr Kaine's hand-me-downs and decided to take on Stephen Forshaw. As I look back on the seven years since he joined my staff, I have no regrets about the time he has spent with me, assisting me, the Liberal Party and the government in this place.

There are some people who have spent so long in this place, not just in years but in hours each day, that they seem to have become a part of the fabric of the place. You cannot imagine the place without them being here. Stephen Forshaw is one such person.

Mr Smyth: And he was once thought to be homeless.

MR HUMPHRIES: That is right. Strangely, he does not have the same reluctance, the same regret, about leaving the ACT Legislative Assembly as perhaps I would have after a sitting that finishes at a quarter to one on a Friday morning. This is his last sitting of the Assembly. It is his last few days working in this place. He goes on to bigger and better things in Sydney. He has been a tower of strength for the Liberal Party and for the government in this place.

He has given tremendous service, and he typifies the best of the people who serve members in this place. We expect an enormous amount from such people. We expect them to do outrageously laborious, time-consuming and sometimes ridiculous things, but

he, like so many other people in this place, has done that with distinction in the last few years. I thank him publicly for that and wish him all the best in his new work and new life in Sydney.

Question resolved in the affirmative.

Sitting adjourned at 12.45 am (Friday) until Tuesday, 27 June 2000, at 10.30 am

ANSWERS TO QUESTIONS

Defamation Law—Reform

(Question No 248)

Mr Stanhope asked the Attorney-General, upon notice, on 9 May 2000:

In relation to the reform of defamation law in the ACT.

1. How many defamation actions were commenced (a) in the Supreme Court and (b) the Magistrates Court for each of the four years (i) 1996, (ii) 1997, (iii) 1998 (iv) 1999?

2. In each court, how many of these cases were? (a) Settled; (b) Defended; (c) Withdrawn; or (d) Resulted in an award of damages by the Court (including the Master or Registrar).

3. How many defamation actions, regardless of the date of commencement, are still to be concluded in each court.

4. In how many cases in each court was the defendant (or one of several defendants) a newspaper or television station.

5. In how many cases in each court was the plaintiff (or one of several plaintiffs) a politician or other recognisably prominent person.

6. For each court what was:
(a) the average amount of damages awarded;
(b) the highest amount of damages awarded;
(c) the lowest amount of damages awarded

Mr Humphries: The answers to Mr Stanhope's questions are as follows:

1. ACT Supreme Court

Year	No. of Defamations
1996	10
1997	7
1998	7
1999	9

ACT Magistrates Court

Year	No. of Defamations
1996	0
1997	1
1998	9
1999	3

2. ACT Supreme Court

Type	**Amount**
Settled	12
Defended	10
Withdrawn	2
Awards	3
Dismissed	1

ACT Magistrates Court

Type	**Amount**
Settled	0
Defended	13
Withdrawn	10
Dismissed	0

3. ACT Supreme Court - 28 matters
ACT Magistrates Court - 2 matters

4. ACT Supreme Court - 47 matters
ACT Magistrates Court - 8 matters

5. ACT Supreme Court - 7 politicians
ACT Magistrates Court - nil

6. ACT Supreme Court
(a) $56,500
(b) $90,000
(c) $5,000

ACT Magistrates Court
(a) n/a) no damages have yet been awarded, however
(b) n/a) 2 matters are awaiting final disposition
(c) n/a)

Government Employees—Fit and Proper Person Test
(Question Nos 249, 250, 251, 252, 253)

Mr Stanhope asked, upon notice, on 9 May 2000:

249 Attorney-General
250 Minister for Education and Community Services
251 Minister for Urban Services
252 Minister for Health and Community Care
253 Chief Minister

In relation to officers of good character:

(1) What legislation within your portfolio requires a person appointed to any government office, agency, or authority to pass a "fit and proper person" test, without limiting the phrase "fit and proper person" test, such a test may include a requirement that the person be of good fame and character and not have convictions within a stated period.
(2) What process is followed in ensuring that a person appointed to any government office, agency, or authority and required to pass a "fit and proper person" test is actually fit and proper.
(3) How many persons have been subjected to a "fit and proper person" test within the past two calendar years.
(4) How many persons have failed to pass the test.
(5) What rights of appeal does a person who fails the test have.

Ms Carnell: The answer to the member's question is as follows:

Answer:
As this question relates to public administration, which is within my portfolio, I am providing a response on behalf of my Ministerial colleagues, taking into account practices across all agencies.

In the absence of information relating to specific concerns about appointments in the ACT Public Service, the level of detail sought in the Question would require a lengthy administrative undertaking. However, the following information provides an overview of how appointments in the service proceed, with specific information about how the "fit an proper person" test is met in respect of the different categories of appointments.

QUESTIONS 1 AND 2: LEGISLATIVE REQUIREMENTS AND PROCEDURAL STEPS

Officers and Employees of the ACT Public Service

Appointments of officers to the ACT Public Service are made in accordance with Division 3 of Part V of *Public Sector Management Act 1994.* This Division includes specific merit requirements in section 65. Section 68 also requires that:

the Commissioner, or the Chief Executive making the appointment, as the case may be, has certified in writing that after due inquiry he or she is satisfied that the person is a fit and proper person to be so appointed having regard to:

(i) verification of the person's identity;
(ii) *whether the person has any prior criminal convictions;*
(iii) the previous employment record of the person;
(iv) the need for suitable references in support of the person's application for appointment; and
(v) *verification of the person's educational qualifications required for the appointment.*

With some minor variations, for example checking of registration for doctors, nurses and other professionals, more detailed scrutiny of educational qualifications in respect of classifications that prescribe such qualifications, delegates of the Chief Executive comply with these requirements through the following procedures:

- confirmation of identity through original birth certificate documentation, and marriage certificates where applicable. In the case of persons not born in Australia, who are unable to provide an original birth certificate, the original Australian citizenship papers or valid passport will be accepted;
- verification of criminal convictions record through a police record history check through the Australian Federal Police;
- checking on previous employment history, together with dates of employment and position held in former organisations, requested in writing from new recruits;
- seeking written and verbal referee reports (a minimum of one report) as part of the merit selection process; and
- confirmation of educational qualifications through production of original education qualification records.

While section 68 applies to appointments of officers under the Public Sector Management Act, Departments also follow these procedures for most temporary employees, particularly in selected areas of employment, where previous convictions or other concerns are more likely to be a factor in a person's future employment.
The Fire Brigade Act has specific provisions in section 19A that set the parameters for merit selection. Short listed applicants must have police checks done.

Executives

Executives are engaged under different provisions of the Act. Following relevant compliance with the merit provisions, engagement is activated by a contract up to a period of 5 years. Clause 16 of employment contracts states:

The Executive warrants that he or she:

(a) is and will continue to be a fit and proper person;

(b) has no prior criminal convictions other than those (if any) disclosed in writing to the Employer.

The merit provisions of the Act apply to Executive engagements other than short-term contracts and re-engagements. This process, which normally includes advertisement, interview and referees checks, in addition to the contractual requirements in the Act, provides a rigorous process for engagement of high quality Executives, supported by the Executive's warranty as part of the Executive contract.

Statutory Office Holders

Statutory office holders appointed by the Executive or a Minister may be subject to different statutory requirements as set out in the relevant legislation providing for the appointment. This may include more specific requirements, such as disclosure of conflicts of interest, without reference to a "fit and proper person" requirement. Again, the rigour of appointment processes is the key mechanism for achieving high quality appointments.

Additional requirements may apply in areas with particular sensitivities. For example, the *Gambling and Racing Control Act 1999*, which falls within the Treasurer's portfolio, requires appointees to the Gambling and Racing Commission not only to be suitably qualified, but of good character and reputation. There is also a specific provision dealing with conflicts of interest.

QUESTION 3: NUMBER OF STAFF SUBJECT TO A FIT AND PROPER PERSON TEST OVER THE PAST TWO YEARS

In the absence of further information about specific areas of concern, an accurate answer to this question would require exhaustive examination of a wide range of records across the ACT Public Service. However, agencies have confirmed that they do apply the steps required to meet section 68 of the Public *Sector Management Act 1994* for appointments of officers under the Act and to a range of temporary employment engagements. Indicative figures for the number of appointments and engagements subjected to the fit and proper test during the last two years are:

Department of Education and Community Services	2,541
Canberra Institute of Technology	314
Department of Health and Community Care	120
ACT Community Care	434
The Canberra Hospital	835
Department of Justice and Community Safety	343
Department of Urban Services	569
Chief Minister's Department and Department of Treasury and Infrastructure (combined)	152
Total	**5,308**

QUESTION FOUR: NUMBER OF STAFF WHO HAVE FAILED THE FIT AND PROPER PERSON TEST

While Departments have checked readily available sources of personnel information it was not feasible to examine every recruitment activity over the past two years

Information from those sources indicates that 48 prospective employees have failed to meet various aspects of the tests applied by Departments to determine fit and proper person requirements.

QUESTION FIVE: RIGHTS OF APPEAL

The Public *Sector Management Act 1994* does not provide for appeals from external appointees to the Service on the basis that they have not met the fit and proper person test as set out in section 68. Consistent with natural justice requirements, procedures adopted in agencies would normally provide applicants with access to any adverse information flowing out of pre-appointment checks and give them a chance to respond.

While the *Ombudsman's Act 1989* excludes complaints about employment, it is possible to lodge complaints about pre-appointment processes. The ACT *Discrimination Act 1991* provides an avenue for complaints about discrimination on various grounds. More specifically, the *Human Rights and Equal Opportunity Commission Act 1986* may also provide a source of complaint about refusal to employ because of a criminal record if the record does not relate to an inherent job requirement.

The *Administrative Decisions (Judicial Review) Act 1989* excludes requests for statements of reasons in relation to appointment decisions to the public service, although judicial review of the decision is possible.

Any checks on criminal record would also be subject to the Commonwealth Spent Convictions Scheme, although this operates only in relation to Commonwealth offences.

Courts and Tribunals—Sitting Days
(Question No 254)

Mr Stanhope asked the Attorney-General, upon notice, on 9 May 2000:

In relation to Quarterly Output Reports from the Department of Justice and Community Safety which detailed the number of court sitting days, estimated numbers of matters lodged and completed, and compliance with standards and statutory timeframes:

(1) How are the estimated number of court sitting days calculated by;

(a) The Supreme Court
(b) The Magistrates Court

(2) What is the number of sitting days estimated for each of the following:

(a) Resident judges of the Supreme Court;
(b) Other judges of the Supreme Court;
(c) Other judicial officers of the Supreme Court
(d) Permanent full time magistrate;
(e) Special magistrate;

(3) What is the definition of a "court sitting day";

(4) What record is kept of the time spent by judges and magistrates in court;

(5) What is the average time spent by each of the following in actual sittings of;

(a) Resident judges of the Supreme Court;
(b) Other judges of the Supreme Court
(c) Other judicial officers of the Supreme Court
(d) Permanent full time magistrates
(e) Special magistrate

(6) Why is the number of matters finalised "estimated" rather than actual.

(7) What are the "standards" that the courts must comply with in relation to these matters and how were they set.

(8) Has there been any review or examination of the courts' case management systems by persons external to the courts.

(a) If so, what recommendations were made as a result;
(b) What recommendations have been implemented;
(c) Why have the other recommendations not been implemented

Mr Humphries: The answers to Mr Stanhope's questions are as follows:

(1) (a) The Supreme Court

The estimate is based on a number of factors including:

• the number of days in the year available for Supreme Court sittings;

• the number of judicial officers available - resident judges, additional judges, master, registrar

• evaluating the impact of any foreseeable events during the year, for example, sabbatical leave

(b) The Magistrates Court

The estimate is based on the total number of working days available during the year, less an allowance for recreation leave and a small allowance for sick leave, multiplied by the number of full-time judicial officers available.

The definition does not include motions lists or conferences conducted by the Registrar or the Deputy Registrars.

(2) Supreme Court—The estimated number of sitting days for resident judges, additional judges and the master are given as one figure. In this financial year, the estimate is 800. The estimate for the Registrar/Deputy Registrar is 150.

Magistrates Court—In this financial year, the estimate estimated number of sitting days is 1700. This figure is based on the total number of available days per judicial officer which is 220 and there are currently eight full time magistrates

Following the appointment of an additional full time magistrate, no allowance was made in the current year, for sittings by special magistrates, however, an allowance of 100 days has been added to next years estimates for this purpose

(3) A "court sitting day" is every day that a judicial officer sits in court irrespective of the length of time spent in court.

(4) The Record of Proceedings completed for every matter listed before the court records the time the matter commenced and concluded. No running total is kept, nor is any record kept of the time spent in court by any particular judicial officer. No other records are kept, or are required to be kept by the court.

Claim for payment forms are submitted by part time judicial officers (special magistrates). These forms set out the number of hours spent in actual court sittings and in the preparation of cases, which are aggregated into full days by personnel staff for payment purposes. Whilst special magistrates sat on 74 separate days during the March quarter, this would not equate to 74 court sitting days for payment purposes.

(5) See answer to Question (4).

(6) The figures reported in the Quarterly Output Reports are in fact the actual figures. The word "estimated" appears because the Output Reports deal not only with quarterly results but also with targets.

(7) The standards form part of the Quarterly Output Reports (see heading "Compliance with Standards/Statutory Time Frames").

The standards were set by taking into account a number of factors including previous performance, statutory time requirements which apply to the type of matter referred to in the standards (eg, personal injuries matters require exchange of medical reports and issue of subpoenas) and having regard to benchmarking with other jurisdictions.

(8) There has been no external review of the Supreme Court's case management systems.

Magistrates Court—Mr Gary Byron was engaged as a consultant to review and examine the ACT Magistrates Court's, Criminal Case Management system.

His recommendations, which were directed at case managing defended hearing matters with a view to eliminating delay and reducing costs, have been fully implemented.

Case management hearings of contested matters have been carried out on a regular basis since November and statistics to date confirm that 70% of these matters are finalised as a result of these procedures.

There is currently no delay in the ACT Magistrates Court's criminal jurisdiction

Community Care Dental Health Program
(Question No 255)

Mr Stanhope asked the Minister for Health and Community Care, upon notice, on 10 May 2000:

In relation to the Community Care Dental Health Program:

(1) Have results of the recent customer survey into the ACT Community Care Dental Health Program been reported to the Minister.

If so,

(a) What did the survey responses reveal about community attitudes towards the current Dental Health Program.

(b) Did the survey identify significant areas of need amongst the ACT community and if so, what are those areas.

(c) What specific changes have been, or will be, made to the ACT Dental Health Program in response to the needs identified by the customer survey.

Mr Moore: The answer to the member's question is:

(1) The results of the recent customer survey for ACT Community Care's Dental Health Program have not been reported as the analysis of the returns is still being assessed. The report is expected to be available in June.

Government Schools—Retention Rates
(Question No 256)

Mr Berry asked the Minister for Education, upon notice, on 10 May 2000:

For the years (i) 1994, (ii) 1995, (iii) 1996, (iv) 1997, (v) 1998 and (vi) 1999:

(1) What were the retention rates in ACT government schools to Years (a)10, (b)11 and (c)12;
(2) What proportion of ACT government school students entering Year 10 in each year completed Year 10;
(3) What proportion of ACT government school students who completed Year 10 enrolled in Year 11 in the following year;
(4) What proportion of ACT government school students who enrolled in Year 11 received a Year 12 Certificate;
(5) What proportion of ACT government school students who are enrolled received a (Universities Admission Index) UAI statement.

Mr Stefaniak: The answer to Mr Berry's questions is:

(1)

Retention Rates- Government Schools

	1994	**1995**	**1996**	**1997**	**1998** **1999**
From Yr7 to Year 10	98.4	100.8	98.8	102.7	99.8 96.0
Year 11	125.3	125.9	123.3	127.5	125.6 125.2
Year 12	111.8	110.2	108.2	106.6	108.7110.0

(2)

1994	**1995**	**1996**	**1997**	**1998** **1999**
97.3	98.8	98.1	99.9	99.4 98.2

(3)

1994	**1995**	**1996**	**1997**	**1998** **1999**
N/A	82.7	83.2	84.0	84.1 84.5

Note: These percentages are for Year 10 enrolments in government schools and Year 11 enrolments in government colleges and are derived from the annual August censuses.

(4)

1994	**1995**	**1996**	**1997**	**1998** **1999**
81	77.9	80.9	82.1	81.480.2

1994	**1995**	**1996**	**1997**	**1998** **1999**
59.8	59.6	60.6	61.1	56.6

Mental Health Services—Expenditure
(Question No 257)

Ms Tucker asked the Minister for Health and Community Care, upon notice, on 11 May 2000:

In relation to the Mental Health Funding, with specific regard to the ACT Government's 1998/99 Budget allocation of an additional $400, 000 on a recurrent basis for the further provision of community based mental health services, and the tied allocation of Commonwealth funding of $1 million per year (for the implementation of the Second National Mental Health Plan) from the same financial year.

(1) What is:

(a) A breakdown of the expenditure of the ACT Government annual allocation of $400, 000 over the three years 1998/99 to 2000/01, including actual and projected expenditure;

(b) The actual and projected dates of advertising and notification of tenders for community health projects funded from this allocation from 1998/99 to 2000/01;

(c) A breakdown of the expenditure of the Commonwealth annual allocation of $1 million over the three years 1998/99 to 2000/01, including actual and projected expenditure;

(d) The actual and projected dates of advertising and notification of tenders for projects funded from this allocation from 1998/99 to 2000/01;

(2) Can you provide:

(a) Documents that specify the Commonwealth's reporting requirements for the $1 million annual allocation towards the implementation of the Second National Mental Health Plan;

(b) Such reports that have been made to the Commonwealth in regard to the Plan and the Commonwealth's $1 million annual allocation.

Mr Moore: The answer to the member's question is:

(1)

(a) The breakdown of expenditure of the ACT Government annual allocation of $400, 000 over the three years 1998/99 to 2000/01, including actual and projected expenditure is tabled at Attachment A

(b) The dates of advertising and notification of tenders for community health projects under the new growth allocation of $400, 000: the Club House Feasibility Study was advertised on 21 March 1998, with tenders being notified on the 4 May 1998 the Dual Diagnosis Consultancy was advertised on 12 September 1998, with tenders being notified on the 20 November 1998

the Community based Supported Accommodation Program (Tender 19) was advertised on 19 December 1998, with tenders being notified on 9 April 1999 the Community based Respite Program (Tender 20) was advertised on 19 December 1998, with tenders being notified on 9 April 1999. There are no other present or future programs covered by this new growth allocation requiring projected dates of advertising and tender notification.

(c) The breakdown of the expenditure of the Commonwealth annual allocation of $1 million over the three years 1998/99 to 2000/01, including actual and projected expenditure is tabled at Attachment B.

(d) One tender process for the Commonwealth annual allocation of $1 million (National Mental Health Strategy Funds) for the Promotion Of Emotional Well Being and Prevention of Mental Illness Program (Tender 26) was advertised on 27 November 1999 with tenders notified on 21 March 2000. To date there are no other proposals covered by this allocation requiring projected dates of advertising and tender notification.

(2)

(a) The Schedule B—*Mental Health Reforms*—of the Australian Health Care Agreement between the Commonwealth and the Australian Capital Territory specifies the Territory's reporting requirements for the Second National Mental Health Plan, tabled at Attachment C.

(b) A report to the Commonwealth regarding the 1998/99 National Mental Health Strategy allocation is currently being prepared in the Department and will be forwarded by the end of May 2000.

Attachment A

A table headed "**$400 000 Community Based Mental Health Services**" is not reproduced but is included in the *Weekly Hansard*

Attachment B

A table headed "**National Mental Health Strategy Funding**" is not reproduced but is included in the *Weekly Hansard*

Attachment C

SCHEDULE B - MENTAL HEALTH REFORMS

Introduction

1 All Health Ministers have endorsed the National Mental Health Policy, the Second National Mental Health Plan and the Mental Health Statement of Rights and Responsibilities, which together constitute the renewed National Mental Health Strategy. The National Mental Health Policy is an agreed broad strategy for the reform of the mental health sector across all States and Territories. The Second National Mental Health Plan outlines a five year program of action in specific areas. The Commonwealth and the Australian Capital Territory will work towards the development of output based performance indicators and targets over the life of the Agreement. Both the Policy and the Plan represent a co-operative approach to mental health reform in Australia.

Definitions

2. Within this Schedule the following definitions apply unless the contrary intention appears:

"Agreed Data" means that data agreed by the Working Group or between the Commonwealth and the Australian Capital Territory, as amended from time to time, as being appropriate and feasible for States and Territories to provide annually for analysis and publication by the Commonwealth in the National Mental Health Report;

"Plan" means the Second National Mental Health Plan, as agreed by Health Ministers;

"Policy" means the National Mental Health Policy agreed by Health Ministers at their conference in April 1992;

"Strategy" means the National Mental Health Strategy, which comprises the National Mental Health Policy, the Second National Mental Health Plan, the Mental Health Statement of Rights and Responsibilities and this Schedule; and

"Working Group" means the Australian Health Ministers' Advisory Council National Mental Health Working Group, which comprises representatives from each of the States and Territories, the Commonwealth, a consumer or carer representative, and the Chair of the Mental Health Council of Australia.

3. Unless the contrary intention appears, all terms used in this Schedule will carry the same meaning as those used in the Plan.

Operation of the Schedule

4. The Commonwealth and the Australian Capital Territory agree to pursue a program of mental health reform consistent with the objectives of the Policy and the strategies outlined in the Plan.

5. Within three months of the end of each grant year, the Australian Capital Territory will forward to the Commonwealth an acquittal on the use of mental health reform funding in a form agreed between the Commonwealth and the Australian Capital Territory.

6. By 31 December in 1998-99, and by 30 June prior to each subsequent grant year, the Commonwealth and the Australian Capital Territory will agree on indicators and performance targets in the areas of:

- promotion and prevention;
- partnerships in service reform and delivery; and
- quality and effectiveness.

7. The performance indicators and targets developed under clause 6 of this Schedule will cover, but not be restricted to, the Australian Capital Territory's activity in relation to:

- collection of data for the National Mental Health Minimum Data Set;
- implementation of National Standards for Mental Health Services;
- collection of consumer outcome and satisfaction data; and
- maintenance and enhancement of consumer and carer involvement at Territory and local levels.

8. The Australian Capital Territory agrees to establish, and maintain over the term of this Agreement, a separate program budget for mental health services covering relevant services provided in public hospitals, psychiatric hospitals and the community.

9. The Australian Capital Territory agrees that Commonwealth funds will not be used to replace, or lead to a reduction in, existing Australian Capital Territory expenditure on mental health.

10. The Australian Capital Territory agrees to maintain a mental health consumer advisory group to provide open and independent advice to the Australian Capital Territory Minister and the Australian Capital Territory Department on mental health issues.

National Monitoring and Reporting

11. The Commonwealth and the Australian Capital Territory agree that within the term of the Agreement, a national system of reporting on mental health activity and progress in implementing the Strategy will be maintained through the production of a National Mental Health Report to be published by the Commonwealth as soon as practicable in the year following each grant year.

12. To facilitate publication of the National Mental Health Report, the Australian Capital Territory will provide to the Commonwealth, no later than six months after the end of each year or after receiving the format, whichever is the latest, Agreed Data for the preceding grant year including:

- progress against the objectives of the Strategy;

- performance against indicators and targets developed in accordance with clauses 6 and 7 of this Schedule;

- National Minimum Data Set—Institutional Mental Health Care and National Minimum Data Set—Community Mental Health Care data collected by the Australian Capital Territory; and

- details on other mental health activity undertaken by the Australian Capital Territory as agreed between the Commonwealth and the Australian Capital Territory.

Housing Development—McKellar

(Question No 258)

Ms Tucker asked the Attorney-General, upon notice:

In relation to the housing development on Section 50 Block 16 and Section 52, Block 6, McKellar which was the subject of an independent investigation commissioned by the Department of Treasury and Infrastructure which reported in October 1999:

(1) Have you referred to the Director of Public Prosecutions (DPP) the conclusion of the investigation that breaches may have been committed by the Directors of the company which was granted the land, in respect of the business of the *Business Names Act 1963* and obligations concerning statutory declarations;

(2) If so, when was this referral made and what has been the result of the referral to the DPP.

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

(1) Yes.

(2) The matter was referred to the Director of Public Prosecutions on 9 December 1999. The Director of Public Prosecutions has advised me that the matter has been referred to the Australian Federal Police. Once the Director of Public Prosecutions has a full brief of evidence he will decide whether or not charges should be preferred.

Housing Development—McKellar
(Question No 259)

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

In relation to the housing development on Section 50 Block 16 and Section 52 Block 6 McKellar

(1) Has ACT Housing purchased any of the units in this development.

(2) If so, (a) Which units have been purchased.

(b) What was the purchase price of each of the units.

(c) When were the units purchased.

(d) Who were the units purchased from.

(e) Who was the real estate agent, if any, who handled the sale.

(3) When was the decision taken by ACT Housing to purchase units in this development.

(4) What was the reason why these units were purchased.

(5) Were alternative locations in McKellar or surrounding suburbs considered at the time of the purchase of these units.

(6) What consideration has ACT Housing given to building or purchasing units in McKellar since the start of 1996.

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

(1) Yes.

(2) (a) ACT Housing has purchased four units in Section 52 Block 6 McKellar.

(b) The four units were purchased for $552,000—$138,000 each. Price was confirmed by valuation from Australian Valuation Office.

(c) The units were purchased on 24 March 2000.

(d) The units were purchased from Tokich Homes Pty Ltd.

(e) The units were purchased from the builder without any real estate agent being involved.

(3) The decision to purchase was originally made in March 1999 but did not proceed at that time. After construction of the units was completed ACT Housing made a decision to purchase the units in December 1999.

(4) The units were purchased as Older Peoples Accommodation because they met a need for this type of accommodation in the Belconnen region and were located adjacent to shops and within close proximity to other services. There are very few properties of this type available for sale and ACT Housing is always searching for suitable properties to meet the needs of eligible applicants.

(5) There were no other properties of similar construction available for sale. ACT Housing has recently purchased a block of 10 units in Curtin and has negotiated to purchase 10 units adjacent to Chisholm shops to be used for Older Persons Accommodation and 10 units in Kambah. ACT Housing recently attended the most recent land auction in an unsuccessful attempt to purchase land at Giralang which appeared to be suitable for multi-unit housing.

(6)ACT Housing has not specifically targeted McKellar as a suburb in which to build or purchase units. It is always seeking opportunities to purchase or construct suitable accommodation across the ACT to enable it to meet the needs of those on the Applicant List. Older Peoples Accommodation and accommodation for single applicants is particularly required because of the demand for that type of housing ACT Housing already owns 11.71% of properties in McKellar.

Radioactive Waste—Dumping
(Question No 260)

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

In relation to the dumping of low-level radioactive waste at the West Belconnen and the Mugga Lane landfills:

1. How much radioactive waste is disposed at each of the landfills per month;

2. What would be the total amount of radioactive waste disposed at each of the landfills;

3. What is the nature of the radioactive waste and where does it originate;

4. What are the legal provisions which govern the disposal of radioactive waste at the landfills;

5. How is the radioactive waste delivered to the landfills;

6. What procedures have been adopted regarding the disposal of the radioactive waste to protect the environment and to minimise the health hazards to workers and to users of the landfills;

7. What monitoring is undertaken of radioactive waste disposal at the landfills to ensure that procedures are followed correctly;

8. What monitoring is undertaken of radiation levels at the landfills;

9. What records are kept of where radioactive waste is buried at the landfills.

Mr Smyth: The answer to Ms Tucker's question is as follows:

1. Radioactive waste is not accepted at Mugga Lane landfill. The amount of radioactive waste disposed of at West Belconnen landfill varies from month to month. For the year 1998/99 the total tonnes accepted per month were:

	Month	**Tonnes**	**Month**	**Tonnes**
July 98	0.18	January 99	0	
August	0	February	0.44	
September	0	March	0.13	
October	0.14	April	0.16	
November	0.21	May		0.08
December	0	June		0.48
		Total	1.82	

2. Radioactive waste is not accepted at Mugga Lane landfill. The total amount of radioactive waste disposed of at West Belconnen varies from year to year. For the year 1998/99 the total tonnes accepted was 1.82 tonnes.

3. Only low-level radioactive waste is accepted for disposal at West Belconnen landfill. *Low-level* radioactive waste is normally generated from hospitals, laboratories and industry. It comprises paper, rags, tools, clothing, filters etc., which contain small amounts of mostly short-lived radioactivity. It is not dangerous to handle, but must be disposed of more carefully than normal garbage. Usually it is buried in shallow landfill sites. Worldwide it comprises 90% of the volume but only 1% of the radioactivity of all 'radwaste'. The low-level radioactive waste accepted for disposal at West Belconnen landfill is generated from research institutes, laboratories and hospitals within the ACT.

4. The disposal of radioactive waste in the ACT is controlled by the Radiation Act under which Disposal Permits are issued by the ACT Radiation Council and by the Environment Protection Act under which landfill licence conditions are set and approvals issued by Environment ACT.

5. The radioactive waste is delivered to the landfill in conventional vehicles bearing the radioactive symbol. The waste containers are also clearly labelled with the radioactive symbol.

6. The radioactive waste is buried at the West Belconnen landfill in the dedicated radiation site that is removed from the general tipping face and within the leachate control area. A person cannot dispose of radioactive waste except in accordance with a disposal permit issued by the Radiation Council. The Radiation Council is required to assess each application and ensure that the proposed method of disposal complies with the criteria detailed in the Radiation Act. The National Health and Medical Research Council's Code of Practice for the Disposal of Radioactive Wastes by the User (1985) is used as the primary reference for the technical criteria. A Radiation Inspector appointed in accordance with the Radiation Act attends each disposal and the packages are tested to ensure that they comply with the requirements detailed in the relevant disposal permit. Radiation monitors are supplied for staff who are involved with the radioactive waste disposal and these monitors are sent away for exposure level testing following the disposal.

7. A person cannot dispose of radioactive waste except in accordance with a disposal permit issued by the Radiation Council. A Radiation Inspector attends each disposal to ensure compliance with the requirements detailed in the relevant disposal permit.

8. A Radiation Inspector appointed in accordance with the Radiation Act attends each disposal and the level of radiation in the packages is tested to ensure that they comply with the requirements detailed in the relevant disposal permit.

9. All radioactive waste disposed of at West Belconnen is recorded in a database. The radioactive waste disposal site is surveyed regularly and its location recorded.

School Grounds—Auditing of Trees
(Question No 261)

Ms Tucker asked the Minister for Education, upon notice, on 23 May 2000:

(1) How much auditing of trees in school grounds has been undertaken since the start of 1997.

(2) Which schools were audited.

(3) What did the audit cover.

(4) Who undertook the audits.

(5) What were the recommendations from the audits.

(6) What action has the Government taken in response to the recommendations.

(7) Could a copy of any audit reports be provided.

Mr Stefaniak: The answer to Ms Tucker's question is:

(1) In 1998 formal procedures were put in place to carry out an audit of mature trees located in the grounds of all ACT Government Schools.

(2) All ACT Government schools were audited.

(3) The aim of the audit was to assess the condition of mature trees over 4 meters in height. Specifically it was to identify those trees that were damaged or diseased and which may pose a risk to person or property and to recommend remedial action, and estimated costs.

(4) Schools were audited by four organisations, namely Cityscape, Merringer Pty Ltd, Robert Boden and Associates, and Allcare Tree Services.

(5) Recommendations ranged from the removal of deadwood to total removal of trees in some instances.

(6) Each school was provided with the audit report and guidelines on how to proceed. Where works were less than $5,000 in total works were managed by schools and were to be undertaken or supervised by a qualified arborist. Financial assistance was provided to schools if the cost of works exceeded $5,000. Schools were advised to undertake all critical works as soon as possible.

(7) Each school received a copy of the audit report for their school. On average reports were around 8 pages in length. A copy of the audit reports could be made available either in total or perhaps on a nominated school basis.

Kingston—Population
(Question No 264)

Mr Corbell asked the Chief Minister, upon notice, on 25 May 2000:

In relation to the population of Kingston:

1 What is the current population of Kingston.
2 What was the population of Kingston in;
a) 1950;
b) 1960;
c) 1970;
d) 1980; and
e) 1990.
3 What has been (i) the growth in the population as a percentage, and (ii) the makeup of the household types in Kingston during the following decades;
a) 1950-1959;
b) 1960-1969;
c) 1970-1979;
d) 1980-1989; and
e) 1990-1999.

Ms Carnell: The answer to the member's question is as follows:

Population and household type information is obtained from the Census of Population and Housing conducted by the Australian Bureau of Statistics. The dates closest to the dates asked in the Question are 1954, 1961, 1971, 1981, 1991 and 1996.

1 The population of Kingston in June 1999 was 1,909.

2 The population of Kingston in:
a) 1954, was 828 persons
b) 1961, was 914 persons
c) 1971, was 682 persons
d) 1981, was 850 persons
e) 1991, was 1,386 persons.

3 The average annual growth in the population:
(i) a) 1954 to 1961, was 1.5% per year
b) 1961 to 1971, was 2.5% per year
c) 1971 to 198 1, was 2.5% per year
d) 1981 to 199 1, was 6.3% per year
e) 1991 to 1999, was 4.7% per year.
(ii) The make up of the household types were:
a) 1954, 192 houses and 3 other dwellings
f) 1961, 198 houses and 14 other dwellings
g) 1971, 194 houses and 24 other dwellings
h) 1981, 141 houses and 255 other dwellings
i) 1991, 120 houses and 613 other dwellings
j) 1996, 99 houses and 890 other dwellings.

Department of Urban Services—Reviews, Policies and Strategies
(Question No 265)

Mr Corbell asked the Minister for Urban Services:

In relation to the *Outputs Progress Report Urban Services* under Output 5.1:

1) What are the 14 policy reviews, policies and strategies identified in the Outputs Progress Report Urban Services; and

2) Could you provide an outline of each.

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

1) The 14 policy review, policies and strategies identified in the Outputs Progress Report Urban Services are as follows:
1. The Civic Affordable Housing Strategy
2. Our City
3. Belconnen Town Centre Masterplan
4. Flora and Fauna Guidelines
5. Parking Plan for Civic
6. Parking Plan Dickson
7. Parking Plan Erindale substituted with Kippax
8. Parking Plan Kingston
9. Energy Guidelines
10. Gungahlin Community Facilities Strategy
11. Planning Policy for Provision of Aged Care Accommodation sites
12. Review of ACT Industrial Land Use Policy
13. Travel and Activity Scoping Study Stage 2
14. ACTHERS Review.

2) An outline of each is provided below:

1. Civic Affordable Housing Strategy

The *Our City* report adopted by Government in December 1998, recommended the development of a strategy for providing a proportion of affordable housing in Civic. The target set for affordable housing was 5%. A draft report, examining options for increasing housing choices in the city area, is currently being prepared.

2. Our City

Creating Our City - An Implementation Strategy follows from Our City. It identifies 10 strategic initiatives (Bunda Street Development, University Gateway, City Parks and Places, Civic-Museum Transport Link, Canberra Centre, City Walk and West Civic, Northbourne Avenue, Rocks Experience, Acton Park, West Civic Improvements) and a series of programs (priority actions and activities) in the areas of Business, Physical Infrastructure, Transport, Environment, Culture and Community).

3. Belconnen Town Centre Masterplan

The Belconnen Town Centre Masterplan will provide a long-term planning strategy for the ongoing development of the Town Centre.

4. Flora and Fauna Guidelines

The Flora and Fauna Guidelines focus on seven aspects of ecological resources of the ACT.

- the protection of plant communities and associated animal habitats;
- the protection of rare and threatened plant species/communities and of uncommon, vulnerable and endangered animal species;
- the protection of wildlife corridors;
- the protection of vegetation of cultural significance;
- the protection of sites of particular ecological interest; and
- the opportunities for enhancement.

The statutory imperative for these Guidelines derives from Part A of the Territory Plan:

- to promote the conservation of nature reserves;
- to conserve and enhance valued features of the Territory's natural, built, social and cultural environment;
- to promote ecological sustainable development, protect biodiversity and provide for high standard of enviromnental amenity, urban design and landscape; and
- to allow movement of native animals between areas of natural habitats within and adjoining the Territory (wildlife corridors).

5-8. Parking Plans

Parking Plans for Civic, Kingston, Kippax and Dickson are in preparation. A Parking Plan for Braddon is yet to be commenced. The plans are to determine area specific parking requirements.

9. Energy Guidelines

As part of the *ACT Greenhouse Strategy* PALM is developing energy guidelines which will result in subdivisions (house blocks), residential construction and commercial buildings which perform in an energy efficient manner.

10. Gungahlin Community Facilities Strategy

A Community Facilities Strategy for Gungahlin has been undertaken as part of the development of the Gungahlin Urban Structure Review.

Implementation of the Community Facilities Strategy will occur as part of the Variation to the Territory Plan for the Gungahlin Urban Structure Review.

11. Planning Policy for Provision of Aged Care Accommodation Sites

A policy position paper has been prepared.

12. Industrial Land Strategy

The strategy provides a framework for the planning and development of industrial land in the ACT and its findings will be incorporated into the review of the Territory Plan Industrial Policies.

13. Travel and Activity Scoping Study Stage 2

The study follows directly from Stage 1 Scoping Study, which was completed in 1999 and is central to the policy development work to be undertaken in implementing the *ACT Greenhouse Strategy* and the *National Greenhouse Strategy*.

14. ACTHERS Review

The ACT House Energy Rating Scheme (ACTHERS) came into being in July 1995 as an ACT Government commitment to a previous COAG agreement.

The operational efficiency of ACTHERS is being reviewed.