DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

1 May 2001

Tuesday, 1 May 2001

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

Suspension of standing and temporary orders—Appropriation Bill 2001-2002

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

> That so much of the standing and temporary orders be suspended as would prevent—
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> (1) any business before the Assembly at 3.00 pm this day being interrupted to allow the Treasurer to be called on forthwith to present the Appropriation Bill 2001-2002;
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> (2) (a) questions without notice concluding at the time of interruption; or
>
> (b) debate on any motion before the Assembly at the time of interruption being adjourned until the question "That the debate on the Appropriation Bill 2001-2002 be adjourned and the resumption of the debate be made an order of the day for the next sitting" is agreed;
>
> (3) at 3.00 pm on Thursday, 3 May 2001, the order of the day for the resumption of debate on the question that the Appropriation Bill 2001-2002 be agreed to in principle, being called on notwithstanding any business before the Assembly and that the time limit on the speech of the Leader of the Opposition, Independent members and the ACT Greens be equivalent to the time taken by the Treasurer in moving the motion - That the bill be agreed to in principle; and
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> (4) (a) questions without notice concluding at the time of interruption; or
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> (b) debate on any motion before the Assembly at that time being adjourned until a later hour that day.

Estimates 2001-2002 —Select Committee
Appointment

MR MOORE (Minister for Health, Housing and Community Services) (10.34): I seek leave to move a motion to establish a select committee on the 2001-2002 estimates.

Leave granted.

MR MOORE Thank you, members. I move:

That:

(1) A Select Committee on Estimates 2001-2002 be appointed to examine the expenditure proposals contained in the Appropriation Bill 2001-2002 and any revenue estimates proposed by the Government in the 2001-2002 Budget;

(2) the Committee be composed of:
(a) two Members to be nominated by the Government;
(b) two Members to be nominated by the Opposition; and
(c) two Members to be nominated by the Independent Members, the ACT Greens or the United Canberra Party;
to be notified in writing to the Speaker by 4.00 pm today.

(3) the Committee report by Friday 8 June 2001;

(4) the Committee to 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

(5) the foregoing provisions of this resolution so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Mr Speaker, there is a slight variation to the motion put on previous occasions. Now that the government has two backbench members we are seeking to have two members nominated by the government. On previous occasions one member has been nominated by the government because we had only one backbench member to be on the Estimates Committee. Otherwise I understand the motion is the same as in previous years.

Question resolved in the affirmative.

Leave of absence

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

That leave of absence from 1 to 4 May 2001 inclusive be given to Mr Kaine.

Justice and Community Safety—Standing Committee
Report No 14

MR OSBORNE (10.37): I present, pursuant to order, the following report:

Justice and Community Safety—Standing Committee—Report No 14—The Defamation Bill 1999, dated 30 April 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

That the report be noted.

The Assembly referred the government's Defamation Bill to the justice committee at the end of August last year. This has not been a particularly easy inquiry for the committee. Although we held three public hearings, we received few submissions and attracted very little public interest outside those who already have strong vested interests.

The committee acknowledges that the ACT is not well served by the current defamation laws and that some law reform is warranted. These laws are a problem for both the media and for potential defamation plaintiffs. As Mr Crispin Hull submitted, the current law encourages bad journalism instead of preventing it.

The law also does not favour the interests of people who feel they have been defamed. Two gentlemen, Sir Lennox Hewitt and Sir David Smith, spoke of their experience of firstly being defamed and then having to use the legal system to obtain redress for attacks on reputation. Their experiences were not only traumatic but also time consuming and expensive.

The Defamation Bill attempts to address some of the problems with the current law. The committee was tasked with considering three specific aspects of the government's bill: first, whether the ACT should return to the common law formulation of the defence of truth found in clause 16 of the bill; second, whether the ACT should adopt a defence based on negligence found in clause 23; and, third, whether under the proposed offer of amends provision, clause 6, a plaintiff should be able to claim not only recompense for expenses but also compensation for the damage done to a victim's reputation and business.

I will speak briefly about each of these proposals in turn, Mr Speaker. First, the defence of truth. Our existing law contains a defence against a defamation action by requiring a media outlet to show that the information published was both true and that it was for the public benefit to disclose that information. Originally, at common law, proving truth was the only requirement for a complete defence against a defamation action. This was altered during the 19th century to protect the reputations of former convicts, adding the requirement of proving public benefit.

An example of how this works can be seen in the case where a public figure person had a cheque dishonoured and had that fact made public by a media outlet. The person sought redress through the court and won, the magistrate ruling that although the facts published about the dishonoured cheque were indeed true there was no need for the public to know.

The committee noted that some states have since returned to the common law of truth alone as a defence, New South Wales and Queensland being notable exceptions. The Australian Press Council rather boldly stated that "people should be prepared to live with true statements about them". I will leave whoever reads this report to ponder that statement for themselves.

Conversely, the committee was made aware of a New South Wales Supreme Court ruling stating that the private behaviour of a public figure could only become a matter of public interest in one of two ways: (1) because it had some bearing upon their capacity to perform their public duties, or (2) because they made it a matter of public interest by their own conduct. The committee also noted that the ACT currently has no privacy

legislation in place, nor in fact do we have a privacy commissioner. Further, the understanding of the true facts of a matter can easily change from day to day.

The second proposal contains the adoption of a new defence in a defamation action based on the absence of negligence. At present, a plaintiff needs only to prove that material was published to launch a successful defamation action, not that there was necessarily an intention of publishing the information with malice. This is a significant reform, one that would lead the nation.

The arguments in support of this reform centred on such a change promoting more responsible journalism, as a journalist's conduct would be in the spotlight to a far greater degree. A further argument that held merit was that the current situation prevented easy access to justice. As the bar of proof is currently so low for a plaintiff, as they only have to prove the information was published, media organisations were prepared to put up a strong defence bent on draining the financial resources of the plaintiff. Most plaintiffs are, therefore, discouraged from initiating a defamation action, with most of those who do go ahead giving up during the process. A change to just proving negligence should ensure that a media organisation was encouraged to conduct itself responsibly and should prevent expensive drawn out litigation.

The third proposal in the bill is a mechanism for providing an uncomplicated and quick system of righting the wrong where a person has been defamed. Under this system, an offer of amends based on corrections and apologies could be made that, if considered reasonable, had to be accepted by the plaintiff. This would provide for prompt and accurate correction in place of a protracted adversarial dispute. It would also mean that monetary compensation for defamation would also become non-existent beyond the reimbursement of expenses. In general terms, media representatives enthusiastically supported each of these reforms—

Mr Hargreaves: Surprise, surprise!

MR OSBORNE: "Surprise, surprise," Mr Hargreaves interjects. Legal representatives just as enthusiastically opposed them. The two defamation plaintiffs sided with the lawyers in opposition. The committee was faced with the challenge of trying to reconcile the positions of the two opposing positions, the media versus the lawyers, where both sides, and particularly the lawyers, did not want to concede any ground.

In the end, the committee decided it could not support the first two proposals in their current form. The government's proposals would give the media too much power at the expense of defamation victims. While defamation plaintiffs are often thought of as well-paid, powerful public figures, this is not necessarily true. The recent case where a Maitland woman's photograph was mistakenly portrayed as someone who murdered her four children demonstrates that misrepresentation by the media can happen to ordinary people and have a devastating effect on their lives.

The media have an important role to play in society; they inform the people of events and bring about public debate on matters. However, in this role they have a great responsibility. Because information has been reported, people sometimes assume it to be true and believe it to be important. Mr Hull lamented to the committee that the current law provided an atmosphere of "publish at your peril" because the law presumed that

information published was false unless proven to be true and that publication was damaging.

The committee accepts that the law in its present form is not working as well as it could in practice, but prefers this situation to trivialising a person's genuine right to privacy. Further, as Mr Hull acknowledged, the solution lies in changing the behaviour of the media in the first place.

In regard to the third proposal, the committee believes that those who have been defamed should be able to continue to obtain compensation for damage to their reputation and business. The reimbursement of legal expenses or a brief note of correction at the bottom of page 2, as the bill proposes, is not always sufficient.

A further consideration noted by the committee was that the second and third proposals were poorly drafted, containing a number of vague phrases. These would be open to wide interpretation, working against one of the main intentions of the bill which is to provide a clear and uncomplicated defamation law.

In other inquiries into other subjects this committee has urged the government to support early intervention and preventative measures to avoid long-term social and economic damage and costs to the community. Again the committee urges the government to place more emphasis on prevention. It must be possible for the government to take other steps to ensure the media does not make serious mistakes which damage a person's reputation in the first place. This is the only approach that will serve the interests of both the media and members of the public who are at risk of being defamed.

The committee notes that there is no strong community interest in defamation law reform. Rather, it seems to have only attracted interest from the media, lawyers and individuals who have had the unfortunate experience of being defamed. It was significant that the two individuals who appeared before the committee with experience as defamation plaintiffs did not support the government's bill. This was despite them both having very difficult, unsatisfactory and time consuming experiences with the current defamation laws. If the Defamation Bill cannot appeal to such people with bad experiences of the current law then it seems it is too heavily weighted towards the media and not suitably addressing the needs of those who may be defamed—that is, both public figures and ordinary citizens.

The committee therefore has rejected all three reforms, leaving the remainder of the bill a mere skeleton. Should the Assembly agree with the committee, it would be sensible in our opinion to reject the bill as a whole.

MR HIRD (10.45): Mr Speaker, I seek leave to table my dissenting report.

Leave granted.

MR HIRD: Mr Speaker, I present the following paper:

> Justice and Community Safety—Standing Committee—Report No 14—The Defamation Bill 1999—Dissenting report.

I reject the committee's report and I base this rejection on the following grounds. The first point relates to the common law formulation of the defence of truth. The committee conceded to the arguments of members of the legal profession rejecting the government's proposal that truth alone should be a defence. In part it seems to have done so in the wrong belief that mud-raking is rife in jurisdictions where truth alone exists. Examples are Victoria and the United Kingdom, where mud-raking is rife. I urge the government to retain this aspect of the bill. The existing qualifications to the law add to the undesirable complexity of the law, and, importantly, they add additional costs to defamation proceedings.

Secondly, should the ACT adopt a defence based on negligence? The committee has not been able to make up its mind on this issue. It concluded that there was merit on both sides of the argument, and thus it would not like to see the provision abandoned. It suggests that the provision be reworded, but makes no suggestion about how this might be achieved. Instead, the committee has suggested that the government engage in further discussion, even though defamation law has been the subject of different consultative processes since the early years of self-government. I urge the government to carefully examine the committee's report with a view to simplifying the provisions. Given the exhaustive consultation processes already undertaken by the ACT Law Reform Commission, the government, and now the committee, I am not persuaded that further delay is in anyone's interest.

Finally, should a victim be able to claim compensation for general damage done to a victim's reputation in the offer of amends process? I am disappointed by the committee's recommendation here, Mr Speaker. I do not think the committee members took the time to understand the issue in question here. Their comments seem directed to the general issue of damages, which is really not in question.

I urge the government to retain incentives to encourage the early resolution of disputes. This aspect of the government's bill is essential to meet the objective, repeated in the preface to the report, of achieving early intervention and preventative measures to avoid long-term damage.

Mr Speaker, in conclusion, I recommend that the government bring forward a revised bill as soon as possible for debate. This process has dragged on for far too long. The interests of people in the ACT are not served by further delays.

Mr Speaker, I seek leave to move that my dissenting report be attached to the committee's report.

Leave granted.

MR HIRD: I thank members. I move:

> That the dissenting report be added to Report No 14 of the Standing Committee on Justice and Community Safety.

Question resolved in the affirmative.

MR HARGREAVES (10.49): I would like to speak in support of the committee's recommendations to the Assembly. Mr Osborne put very eloquently the reasons why the principal and fundamental tenets of the bill were not able to satisfy the majority on the committee. They could not even be rescued. In fact he made the point that when you take these particular pieces out, what is left is a skeleton.

What I think is worth putting on the public record, Mr Speaker, is that we do support the government's push to reform defamation law. We do recognise the need for that. We also recognise the need for a national approach to defamation law because this would prevent forum shopping. We know that the ACT is quite a popular place for people to come to pursue defamation actions.

However, there are, as I say, some problems with the fundamental tenets. Mr Speaker, the defence of truth is all well and good provided that that is not the only measure by which a person can have their reputation besmirched. We did not feel it appropriate that somebody could have a mistake that they made 30 or 40 years ago put in the paper, find that that damages their career and their employment prospects and embarrasses their family, and that the media outlet can just say, "Well, it was true. That's just bad luck." There needs to be a public interest; there needs to be a public benefit.

When we say there needs to be a public benefit test, Mr Speaker, that has to be weighed up alongside the detriment to innocent victims. If a public figure commits some sort of a transgression when they are fairly young and there is a public reporting of it, if that transgression is not related to their job, to their position in the public eye, or to their position as a role model, then I feel that it should not be defendable.

We often forget that it is the families, the spouses, the parents, the kids and the grandkids of people who suffer the most when some scurrilous reporting occurs. The Minister for Education and Attorney-General is a very big supporter of anti-bullying campaigns in schools, and I want to put on the record how much I support his initiatives and activities in that area. What we have to be careful about in this sort of legislation is that we do not provide the material for bullies in the school yard who would like to have a go because it may be that the minister did something wrong when he was a young rugby union player. No doubt he did, and he does not want anybody to know, and I am sure that is not his finger that I can see across the chamber, Mr Speaker. However, we would not like to see, for a minute, any transgression he may have committed put out in the public arena now and see his wife suffer ostracism because of it, or, when their children go to school, we do not want to see that dragged up and see them quite significantly injured psychologically, and often physically.

Mr Speaker, I need to overemphasise the public benefit, not the public interest. Of course, the public is very interested in anything we might say as public figures, or anything said by high profile footballers, even former grand final heroes, and former grand final heroes turned coaches. We might all be interested in what they do, but I would argue that there has to be a public benefit. There has to be some reason why the public is going to be better off for the publication of that particular so-called truth.

One of the arguments put forward was that the law in the ACT is quite complex and costly. I agree with that. The cost factor weighed very heavily on my mind in the one and only case I decided to mount against a newspaper in terms of besmirching my reputation.

It contributed to the 15 minutes worth of angst I had before mounting the case, but complexity and costs are no excuse for making a mistake and providing bad law.

I respect Mr Hird's right, indeed, his duty, to put in a dissenting report if he feels that he cannot agree with the committee's conclusions. However, I think it is also my right and my duty to gently tell him where I think he is slightly off the centre of the mark. On the issue of negligence, he said the committee had no suggestions for rewording the bill. I might suggest to you, Mr Speaker, that that is because none of us has legal training. The Justice and Community Safety Committee, as opposed to the scrutiny of bills committee, does not have a lawyer at our disposal. What we are saying is that if we, as lay people, do not understand the bill and we are not convinced, then the people affected by the legislation will be in the same position, and perhaps somebody with qualifications could clean it up. Therein lies a suggestion.

Mr Hird also suggested that the committee did not take the time to consider the nature of damages to reputation and things like that. Let me assure the member opposite that time was taken to consider that aspect. When we talk about damages, we know that there is a big action on the part of the government to get rid of pain and suffering as a subject of compensation, and the victims of crime compensation scheme is the best example of that.

When you talk about besmirching somebody's name, pain and suffering is the only thing that remains. Then, when you talk about quantifying a compensation claim, you have to talk about damage to reputation where the reputation is directly related to employment prospects, to obtaining a job. If, for example, a person is a lobbyist, their whole livelihood is at risk. People like ourselves, if we get besmirched well and truly, will miss out on preselection or election at the ballot box. So it can have a devastating effect on the economic career of not only the person involved but also the family to which they are attached.

So, Mr Speaker, I support the committee's recommendations. I urge the government to go back and draft this bill again. The one thing that the four members of the committee were agreed on was that there was a need for change and that there was a need for a national approach. We just disagreed on the way the bill was presented, and you see that report before you.

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

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

MR QUINLAN (10.57): I present, pursuant to order, the following report:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Finance Committee Report No 11—Appropriation Bill 2000-2001 (No 2), dated 27 April 2001, including a dissenting report, together with a copy of the extracts of minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, through you, I would like to relay to the Assembly a quite unique position that I found myself in. There are three members of the public accounts committee. One was absent. You and I, Mr Speaker, then reviewed the final draft of the report and we found several areas of disagreement. So this report is somewhat unique in that inasmuch as I present it, I also give notice that there is a dissenting report signed by me. This is the report, so I will try to do the body of the report justice before I move to the content of the dissenting report.

Mr Speaker, if I wander off the straight and narrow, you might want to correct me, or nod or frown at some stage. The committee did question the need for a second appropriation bill of this magnitude. You can see by looking at the bill that there are quite obvious inclusions, unforseen and urgent matters, that would naturally fit within a supplementary appropriation bill. But, then again, there also seem to be some items that could quite readily have waited until the budget was brought down today and could have been implemented during the course of the following financial year. Of course, we would have to question, as we went through the appropriation bill, whether it was possible to complete some of the work that was required by the particular line items within the appropriation bill.

After we heard the government claim to have put together a draft budget, we also were concerned that there was virtually no updating of the forward estimates. So we got an appropriation bill which had revised amounts and inclusions for this year, the current financial year, but the forward estimates incorporated into this bill were different, only one or two by a very marginal amount, from all of those forward estimates that were incorporated into the budget brought down a year ago. Even though there have been press releases from government updating the projected bottom line for this year, and many claims of a draft budget process, there was no change to the forward estimates contained within this particular bill.

In explanation, there was some discussion about that really just complying with the letter of the Financial Management Act. I personally remain to be convinced on that. I personally found it a little frustrating, trying to assess the consequences or the implications of some of the content of this appropriation bill, when no effort was made to provide information on down the line impacts. Quite obviously, some of the appropriations in this bill imply further expenditure in future periods. So we have a recommendation incorporated in the report saying that if the Financial Management Act does preclude the updating of forward estimates, then it should be so amended. I give notice that you can look forward to receiving that bill in this place under my hand.

We also discussed along the way, when talking about information as a sort of by-product, the fact that, according to the Financial Management Act, this Assembly receives monthly financial reports. I think I could state that virtually nobody in this place reads them, that nobody takes a lot of notice of them, and if they did they probably would be misguided by them because they do not include the normal balance day adjustments, clean up and accounting for timing differences that an end of accounting period would normally incorporate. Therefore, we have recommended that the Financial Management Act be amended so that we only get quarterly consolidated financial reports in this place. Again, I can give the Assembly notice that there will be legislation coming forward to enable that change to be made.

I can advise that, in meetings, I have virtually got a nod from Treasury officials that if it was reduced to a quarterly process the effort would be made to make sure that they were representative reports, and we would not have the Chief Minister/Treasurer talking in February about a $90 million surplus as at January's financial report because, quite plainly, that was a nonsense at the time.

We were concerned about the level of detail given within the bill. For example, there was $6 million additional funding given to InTACT, our IT provider, under the line, "An injection for operating requirements". Not a great deal of information is contained in that statement. So we pursued that. Virtually, questions were taken on notice and we got back an answer saying, "Well, $4.4 million of that was contractor expenses." That, still, is not a lot of information to indicate what the contractors did and what was the cause of the additional expenditure requirement. We therefore have a recommendation that an appropriate degree of detail be provided. It is a bit difficult to be so specific, so I guess that recommendation is written in a vain hope, and written to register the committee's frustration with its inability to read from the report any meaningful rationalisation of what had occurred.

While I am on the subject of InTACT, the committee observes that a few years ago when expenditure in InTACT rose within the budget we were informed that that was because we were going through a modernisation process. Now it appears that the modernisation process has become perpetual—a classic public sector phenomenon. We now have expenditure on InTACT, the IT provider, of $62 million per annum. That is quite heavy expenditure. We make some observations about expenditure of that magnitude to be externally monitored.

I note personally that the contract that we had with Fujitsu seems to have died on the vine. It was a promise of great increases in employment within the ACT, but it seems to have declined, and it seems to have declined in favour of a supplier, CSC. I have asked questions before about relationships with CSC, given that the former head of InTACT, Mr Olaf Moon, is married to the local head and director of CSC. I have been assured that appropriate measures have been taken for arm's length dealings between the two, but this does point up the need for scrutiny and the need for a bit more information than "$6 million injection for operating purposes".

We note that in this bill the government has written off the debt to the Kingston Foreshore Development Authority, ostensibly to convince merchant bankers that it is a viable authority. We must be working with some none too bright merchant bankers who need to see that happen before 30 June this year, when it could have been done in the budget or heralded in the budget today and they would have known about it. But it does then have an impact upon our bottom line.

Also, we see a further write-off in relation to the Bruce Stadium. A further $5.5 million of debt has been written off. I have to make some comments about the Bruce Stadium. The government in recent times has taken to describing the Bruce Stadium as a community facility. Now, if it is a community facility, it is being accounted for with the write-off of debt and the write-off of its capital investment quite differently from the other community facilities that we operate within the territory. For example, the hospital is a community facility. It runs largely on taxpayers' funding. The assets are maintained

in its balance sheets. It has loans; it services loans. The depreciation and the interest are included, and we get a true cost of the delivery of health costs to the ACT because all the real cost is included. However, if we write off all of the capital investment and debt for Bruce Stadium, what we are doing is understating the cost of running Bruce Stadium. Now, I wonder why a government would want to do that—to understate the operation of a community facility? Quite obviously, the answer to that question is self-evident. That is a rhetorical question.

We would also like to bring to the Assembly's attention the fact that there is a further appropriation in this bill of $1.7 million for Bruce Stadium operation for the year. In another committee, when we were looking at the Bruce Stadium audit report, we asked the Auditor-General for his re-assessment, or his impression of the now overall cost of Bruce Stadium, given that it is another $1.7 million per year to run it. He has stated that his former assessment of the gross cost of the stadium and our Olympic effort of $82 million would be at the bottom of the range. To put it another way, it is likely now that the net present value of what we have blown at Bruce Stadium is probably well in excess of $80 million.

Turning to the Department of Urban Services, we have to say that quite a large lump of money, $3.7 million, was given late in the year to Urban Services. The information provided in hearings to support that $3.7 million and the task was, I have to say, lacking in precision. It did seem that it was really an effort to change the program late in a year. We were concerned that an amount of $3.7 million could be earmarked for expenditure from today onwards and be assured at the same time that due process would be followed; that we would have proper tendering processes and that we would not necessarily be extending existing contracts beyond the level that they should be extended without introducing the competitive element, particularly in current times when there is a bit of a downturn in the economy and there is likely to be a sharpening of competitiveness in those kinds of contracts.

The only other comment I make is about housing. We have had notification from the government that there will be a further $2 million amendment to the bill to provide for the government's boarding house program. What is of concern about that, of course, is that when we came to talk to officers and the minister about that there seemed to be no real information as to what would be the ongoing cost of setting up those things. So it did, again, seem to be a hastily put together program for inclusion in this year's expenditure as opposed to next.

Now, Mr Speaker, I would like to move seamlessly, with an extension of time, to my dissenting report. I must apologise that I probably did drift from time to time from the body of the report. *(Extension of time granted.)* I believe that bringing down a $45 million supplementary appropriation bill at this time in an election year is a very significant and, I understand, unprecedented event. To my mind it is as much a mini budget as it is a supplementary appropriation. To my mind it has political motivation. It is designed, in fact, to run down the petrol tank, to use the dollars left in the account in this financial year, because the report on this financial year, the bottom line on this financial year, is likely to be the last meaningful financial report that comes to this place before the election. In fact, it will be an unaudited report unless the government makes an effort, as recommended by the Auditor-General, to ensure that an audited report on

the current financial year is made public and promulgated before the election. So I think what has happened is a blatant and quite cynical process, but we have it on the books.

I am concerned about the information content of this document. I am particularly concerned about the absence of updated forward estimates. I do not really care about whether you can say I have read the Financial Management Act in a particular way and it says I will not change those. If this government was an inclusive government, if this government wanted cooperation, if it was the open government that it has tried to paint itself, it would have given us a supplementary document that said, "These are the updates of our projections for next year," because that would provide the contents. It is pointed out in the body of the report that some of these expenditures imply future expenditure. But so much for the claim.

I think the report is fairly clear in its conclusions, and I think my dissenting report is quite clear as well. I commend the report and the dissenting report to the Assembly.

Question resolved in the affirmative.

Justice and Community Safety—Standing Committee
Scrutiny Report No 5

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

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 5 of 2001, dated 23 April 2001.

I ask for leave to make a brief statement.

Leave granted.

MR OSBORNE: Scrutiny Report No 5 of 2001 contains the committee's comments on 11 bills, 15 subordinate laws and five government responses. This report was authorised for publication by the Speaker on 23 April 2001. I commend the report to the Assembly.

Education Bill 2001

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

Title read by Clerk.

MR STEFANIAK (Minister for Education and Attorney-General) (11.16): Mr Speaker, I move:

> That this bill be agreed to in principle.

Mr Speaker, I am very pleased to present to the Assembly the Education Bill 2001. The bill underpins children's right to school education, strongly supports innovation and flexibility in school education and facilitates parent participation and choice. It replaces existing legislation, some of which dates back to the 19th century. The laws replaced by

the new bill are: firstly, the Education Act 1937, which provided for compulsory education, non-government schools and home schooling; the Schools Authority Act 1976, which provided for the establishment and operation of government schools; the Free Education Act (New South Wales) of 1906; and the Public Instruction Act (New South Wales) 1880, in their application to the Australian Capital Territory.

The purpose of the Education Bill 2001 is to state the rights and obligations of parents and government regarding children's school education. As well, it provides powers and provisions for the operation of government schools, the registration of non-government schools and the registration of home schooling.

The Education Bill 2001 is based on the recommendations of the School Legislation Review Committee. The committee was established to advise me on "the relevance of the provisions in the existing acts and the key elements of legislation needed to underpin the high-quality of schooling in the ACT". The committee was asked, amongst other things, to consult widely on the legislation and examine and report on state and territory legislation.

The review committee was chaired by Professor Don Aitken, Vice Chancellor of the University of Canberra. Its membership comprised representatives from schools, parents and teachers organisations from the government and non-government school communities. It also included the executive director of the ACT and Region Chamber of Commerce and Industry and representatives from the Department of Education and Community Services. The review committee published an options paper as a basis for consultations that were made through submissions and workshops.

The new legislation is intended to create a framework for the provision and operation of school legislation that will facilitate the extensive changes that are demanded of schools now and in the future. The new law will be non-prescriptive, enabling schools to exploit new modes of delivery, be it from off campus suppliers, through the Internet and computers, or through communications and information technologies such as interactive television not yet in the marketplace. It requires schools, in developing such programs, to maintain standards and ensure they assist in maximising students' educational achievements.

The bill includes statement of values and principles applying to school education in an open, democratic society. The bill strengthens participation of parents and other stakeholders in decision-making in government schools through the establishment of a Government School Education Council. The council gives a legal foundation to the consultative process and will include representatives of parents, school staff, school boards, industry and commerce.

The bill recognises the significant role of non-government schooling. The values and principles that underpin non-government schooling are acknowledged in the chapter in the legislation dealing with non-government school registration and renewal of registration. A Ministerial Advisory Committee on Non-Government Schooling is formally established through the new legislation.

The review committee recommended that the government consider introducing in the legislation provision for teacher registration. This is not included in the legislation at this time. Instead, the government has begun an extensive period of consultation to examine and resolve the complex issues involved in teacher registration. The Department of Education and Community Services has already held a forum on this matter and an issues paper has been developed by the department in consultation with the ACT Branch of the Australian Education Union. Teachers, parent groups, the non-government school sector, unions and universities will all participate in the broad-ranging discussions. The government will also need to produce a regulatory impact statement prior to introducing any such legislation.

Mr Speaker, we recognise that legislation does not make good schools. However, I am confident that this legislation will provide an enduring framework for school education in the territory. I commend the bill to members of the Assembly.

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

Children and Young People Amendment Bill 2001 (No 2)

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

Title read by Clerk.

MR MOORE (Minister for Health, Housing and Community Services) (11.22): I move:

> That this bill be agreed to in principle.

The bill I now present to the Assembly will achieve three things. First, it will remedy a technical problem in the transition between the Children's Services Act 1986 and the Children and Young People Act 1999 by converting child protection orders made under the Children's Services Act 1986 as a result of annual court-based reviews to orders under the Children and Young People Act 1999. This will ensure that those children protected under the previous act will continue to be protected by the new legislation.

Secondly, it will remove the uncertainty about the date at which the chief executive is required to annually report in relation to a child or young person for whom the chief executive has parental responsibility.

Thirdly, it will return the legislative protection for people who have reported suspected child abuse under the Children's Services Act. People undertaking this onerous public duty, whether on a voluntary or a mandatory basis, need to be assured that their identity cannot be disclosed. This protection has been part of the Children's Services Act and was inadvertently omitted during the drafting of the current act.

If this legislation does not pass this week, Mr Speaker, the protection afforded to some notifiers and the nature of some child protection orders will be in doubt. I commend the bill to the Assembly.

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

Bail Amendment Bill 2001

Debate resumed from 29 March 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (11.24): Mr Speaker, the Labor Party has decided, with some reluctance, to support this bill. The Attorney-General introduced the bill on 29 March 2001, which is not all that long ago, and he has not perhaps allowed as much time for consultation as the Labor Party would have liked.

The bill is a problematic piece of legislation, even though I note that the ACT Law Reform Commission has been dealing with the issue and presented a report on the matter in 1998. The commission, in its recommendations, suggested that provisions such as the Attorney has included in this bill should be inserted in the Bail Act. I will deal later with the recommendations and the views of the Law Reform Commission and its round of consultation in relation to the legislation. I will perhaps deal with those in some detail.

As I said, the bill is problematic, even though, as I have said, the ACT Law Reform Commission, after quite serious consideration, acknowledged that the one contentious issue dealt with in this bill, and dealt with in its review of initiatives, is the reversal of the onus in relation to the granting of bail and the circumstances in which bail would be refused to alleged serial repeat offenders.

I think we need to acknowledge that the problem that is being sought to be addressed here—community concern about the activities of alleged serial offenders—does not highlight the fact that the government, through this bill, is ignoring a range of other concerns.

It is important to note in a discussion of this issue that the Bail Act already contains a provision that the person considering the granting of bail must have regard to, among other things, the circumstances in which the offence is alleged to have been committed, the nature and seriousness of the offence and the likelihood of the person committing an offence while released on bail. These are the criteria that must currently be taken account of.

One would have hoped that that provision was sufficient for the police and courts to be able to determine whether an alleged serial or repeat offender should be refused bail, without the need to create a presumption against the right to bail. One suspects that the problem lies not so much with the law but with its administration by those charged with the responsibility for exercising the discretions granted by the law.

The police often state—I think we are all aware of this in terms of the debate we have had here and the concerns of the community harbours in relation to the level of property crime that currently affects Canberra—that a number of repeat offenders are responsible for a large number of the crimes committed in the ACT. It has often been complained to the police that these alleged offenders are released on bail by the courts and continue their criminal ways and their criminal behaviour whilst on bail for other offences.

We assume—and I think we are entitled to assume, and I am sure it is the case—that the Director of Public Prosecutions and the police argue strongly and strenuously before the courts against granting bail. But, to the extent that bail is granted, one is led to the conclusion that the arguments of the DPP and the police are not always as persuasive as they think they should be.

Given the court's power under the Bail Act to refuse bail and the High Court's view that the refusal of bail is not seen by the law as punitive, we can only surmise that the DPP and the police have not been able to carry their arguments before the magistrates and the judges in relation to the desirability of refusing bail in certain circumstances.

I should, I guess, highlight the fact that I am dealing in this debate with the Labor Party's concerns about this legislation, albeit, as I have indicated, we have decided to support it. We are dealing with the contentious issue of reversing the onus in an application for bail from the DPP to an applicant but also with the inclusion of the presumption against bail in circumstances where a serious offence has been committed by a person, that person is on bail and that person is again charged with a further serious offence.

The scrutiny of bills committee has given quite detailed consideration to this bill, and in its discussion of the bill has raised the question of whether it is appropriate to create a legislative presumption against the granting of bail where a person already on bail has been accused of another serious offence. The committee asks, "Is this a circumstance warranting special treatment, or is this step an undue trespass on the personal rights of the accused?" The rights in issue identified by the scrutiny of bills committee are the rights to liberty and the presumption of innocence.

So far as any trespass on the presumption of innocence goes, I have to say that I am prepared to be guided by Mr Justice Kirby, a judge particularly noted as a guardian of the rights of the individual. When he was president of the New South Wales Court of Appeal and considering a similar provision in the New South Wales Bail Act, he said:

> Whatever the merits of the law, it in no way detracts from the likelihood of a fair trial. In one sense, it is an adjunct to ensuring that a trial will be held. The Bail Act provision certainly has no effect on the presumption of innocence or other features of the fairness of the trial

I think that is a significant expression of view by Justice Kirby in relation to a similar provision in New South Wales. I think it is important to note that Justice Kirby does not believe that the refusal of bail in circumstances where a person on bail for a serious offence is later charged with another serious offence has any effect on the presumption of innocence or other features of the fairness of the trial.

In addition, in another case the High Court has said that there are countless examples of trials being conducted with perfect fairness, although an accused has not been granted bail. The impact of a bail application, whatever its outcome, on the conduct of the trial is minimal.

Both Mr Justice Kirby and the High Court obviously had in mind situations where the accused would plead not guilty and a trial would ensue. However, the persons principally affected by this change of law in the ACT, I think—and I am prepared to be advised

otherwise by the Attorney or other members—almost certainly will be housebreakers, people charged with burglary. I think in the context of this debate we have to acknowledge that we are talking here principally about people arrested and charged for property burglaries and other property crimes.

One feature of this debate that we should all be conscious of and should all acknowledge is that the vast majority of property crimes are committed by people with a substance abuse problem. It is in that context that I and the Labor Party have concerns in addition to some of our other concerns about this proposal. I say we have concerns even though I have indicated that we are supporting the bill. We have concerns and we are monitoring this legislation very closely.

It is a black-and-white provision which deals to some extent with an issue—namely, property crime, probably perpetrated in the main by people with a heroin addiction or other substance abuse problem. The problem with this sort of provision, this sort of legislation, is that it does not deal with the roots of the problem. It does not deal with causes of crime. Perhaps that is something we can deal with through other approaches and with other programs, but most certainly it is something that we need to keep uppermost in our minds in relation to this sort of provision. The courts refusing bail to alleged repeat offenders does not do anything about the causes of crimes.

In the context of the debate it is also relevant that many people, if not most people, brought before the courts in relation to these sorts of crimes—property crime, burglaries—either plead guilty when they ultimately get to trial or, if they do not plead guilty, are summarily found guilty of the offence with which they are charged. A person having pleaded guilty or having been found guilty, it is then a matter for the courts to determine whether or not they should be incarcerated.

The question is whether keeping these people in custody pending resolution of their charges would do anything to lessen their addiction, deal with the causes of crime or in fact deal with their propensity to steal or to burgle houses. I guess that is the nub of the issue. What is going to be the effect of this? Is it going to have any effect on crime?

We in this community would hope that programs offering treatment for people who commit property crimes as a result of addiction, programs for dealing with the causes of the crime—access to counselling and building self-esteem—would be well established and operational, but all of us know that at this time they are not sufficiently resourced or provided appropriately.

To summarise, I think everybody in this place would agree that simply removing alleged offenders, alleged burglars and alleged perpetrators of property crime from the streets is most certainly a stop-gap, short-term measure that does not address the cause of the crime. I think we perhaps all need to accept at the end of the day that we will probably have very little, if any, impact on the rate of crime in the community.

Another issue raised by the scrutiny committee, and another issue that is fundamental to this debate, is of course the extent to which a provision such as this, a presumption against bail, trespasses against the right of all of us to our liberty. The scrutiny committee rightly points out that the Assembly is being asked to decide whether it is appropriate to limit that role by legislating against the presumption of bail in some circumstances.

It is part of the debate—it does need to be noted—that there is no common law right to bail. It is not something which we, as a part of the common law that operates here in Australia, have a right to expect. There is no common law right for bail.

The scrutiny committee quotes from a decision of the New South Wales Court of Appeal to that effect:

> There is no common law right in a person who has been arrested and charged with a serious crime to be at liberty or on bail pending the resolution of the charge.

We are not talking about absolute rights to liberty or absolute human rights. We as a community accept that we do have a right to incarcerate people for alleged offences once a charge has been laid. I accept that that is appropriate. I accept and the Labor Party accepts that there can be limitations on the right to bail. There always have been, and it is appropriate that there are. The Bail Act contains some such limitations now, by setting criteria for the court to use when considering whether to grant bail. This amending bill extends those criteria for a limited category of persons.

On balance, as I have said, the Labor Party does not think that this provision will have any great impact on the overall crime rate, and I do have concerns about it. It might delay the commission of some offences by some people if their bail is refused but, as I said and as I reiterate, it will not address the root cause of crime.

However, the bill does not, in our view, unduly trespass on the accused's rights. It applies only to a limited category of persons on bail for a serious charge who allegedly commit another serious offence. Perhaps the Attorney's intention in relation to this bill is that it send a clear signal to the judiciary that the community is fed up with alleged repeat offenders; that the escalating crime rate in the community does warrant action.

What the Assembly is talking about here, if this particular bill is passed, is a person accused of a serious offence allegedly committed while on bail for another serious offence or other serious offences. We are talking about people who are on bail on the basis of an alleged serious offence which they have been charged with. We are talking about those people allegedly committing further serious offences whilst on bail, coming before the courts and making an application for bail and perhaps receiving it.

The legislation suggests that the court should, in those circumstances, not grant bail unless there is some persuasive argument for doing so. There is a discretion retained in the magistrate or the court to grant bail in any circumstance, albeit the applicant will have to marshal a significant argument of the case, just as the DPP and the police do at the moment. In those circumstances the applicant is being asked to make a case to the magistrate for bail. He will have to argue special and exceptional circumstances. They are not defined.

It will be interesting to see the definitions the court applies in circumstances where somebody on bail for a serious offence comes before the court again charged with another serious offence and applies for bail and says, "Look, this is why you should grant me bail." Serious and exceptional circumstances, I would imagine, would relate to a person's family situation. I imagine they would relate to a person's employment status.

I imagine they would relate to a person's financial security and a range of other issues that are currently taken into account by the court in decisions about whether or not to grant bail under the existing arrangements.

The discretion to grant bail will be retained. The onus is being shifted from the prosecutor, from the state, to the applicant in that narrow classification of cases—namely, where a person is already on bail for a serious offence and appears again charged with a further serious offence. The definition of "serious offence" is an offence that carries a potential prison term of more than five years. So we are talking about significant offences.

I think the bottom line is that if the bill is passed the Assembly is telling the courts that, for this limited category of alleged offenders, the community expects the courts to apply more rigorous criteria when assessing a bail application. The first time around, a person charged with a serious offence does have the benefit of the existing provisions. The court must take a whole range of criteria into account in determining whether or not to grant bail. What the legislature is saying is that the second time around the court should apply a separate set of criteria; that the second time around the onus should be reversed.

In conclusion, Mr Speaker, I refer briefly to the work the Law Reform Commission has done on this issue. The Law Reform Commission received a reference from the government in 1997 to give some consideration to the issue of bail and proposals for legislative reform. The Law Reform Commission, as a result of that reference, did commence a round of consultations. It formed a working group which comprised representatives of the Magistrates Court, the Supreme Court, the Legal Aid Office, the Australian Federal Police and the Director of Public Prosecutions.

It is perhaps relevant for me to note that in the documentation that I have in relation to this report the members of the criminal law consultative committee that the Law Reform Commission developed as a result of that reference comprised Justice Ken Crispin, who chairs the commission; Ron Cahill, the Chief Magistrate; Richard Refshauge, the Deputy Director of Public Prosecutions; Grant Brady from the Law Society of the ACT; John Seymour from the ANU; Professor David Hambly from the ANU; Chris Staniforth, the Director of the Legal Aid Office; Ben Salmon from the Bar Association; Commander Alan Castles from the AFP; and James Ryan, the Director of ACT Corrective Services. One assumes that it was as a result of the consultations undertaken with that particular group that the Law Reform Commission recommended a provision of the nature that is included in this bill.

I wonder about the nature of the work the consultative committee did on this. I did note this morning—and this is one of the things that confuse me about public debates on these sorts of issues—a comment from the current president of the Law Society of the ACT that he had some concerns about this bill. But, as I understand it, the Law Society was a party to the recommendation that the government introduce provisions of this sort. So I am not quite sure exactly what it was that Chris Chenoweth was saying as president of the Law Society. But it appears, and perhaps one can assume, that his predecessor in the position did not share the views that the Law Society is now apparently espousing.

It is one of the difficulties in relation to a debate such as this, when we all seek to consult and take some counsel—

MR SPEAKER: The member's time has expired.

MR STANHOPE: I seek a very short extension, having been upbraided by one of my colleagues about extensions of time. *(Extension of time granted.)* I want to make the point that it is a difficulty, but in arriving at my position on this particular legislation I did have regard to the nature and make-up of the immediate advice of the Law Reform Commission before it came to its position, its recommendation, in relation to provisions of this sort.

As I said, the consultative committee relied on by the Law Reform Commission had a range of members whose seniority, experience and reputations I hold in some esteem. It was relevant to the position I arrived at. So it is quite disquieting, having come to a conclusion on the basis of a view being expressed by Justice Ken Crispin, Ron Cahill, Richard Refshauge, Grant Brady, John Seymour, David Hambly, Chris Staniforth, Ben Salmon, Commander Alan Castles and James Ryan, Director of Corrective Services, to see after the event one of the members of the committee, through a later emanation, expressing perhaps some other concerns.

On the basis of that, I have sought to outline some of the concerns that we have in relation to this legislation. We will monitor the legislation closely. We all agree that the level of property crime in the ACT that is simply unacceptable. The highest burglary and car theft rates in Australia are unacceptable. The people of the ACT expect a response. This response is a signal from this legislature to the judiciary that, in circumstances where a person charged with a serious offence has been granted bail and is subsequently charged with another offence, different criteria could and should apply.

MR MOORE (Minister for Health, Housing and Community Services) (11.46): This is fundamentally an issue of civil liberties and, as such, it is one of the issues on which I regularly separate myself from cabinet.

I went through the same sorts of considerations as those Mr Stanhope is talking about and those most eloquently stated in the scrutiny of bills committee report. The committee looked at the right of liberty and the presumption of innocence as part of its role in looking at undue trespass on rights and liberties. There is in these circumstances no doubt some trespass on civil liberties. The question is: is it undue?

Mr Stanhope and Mr Stefaniak identified the current situation with burglaries in particular, and the current situation with regard to people who have already been charged and who we know are being charged a second and a third time for the same sorts of offences whilst they are effectively before the courts.

Part of the question as to whether or not we have an undue trespass on liberty is the impact on the rest of the community. It is clear is there has been a significant impact on the rest of the community from the legislation as it currently sits. Mr Stefaniak has attempted to say that we need to change the way we approach this; that we need to have the onus of proof going in the opposite direction; that we have to give a signal to the judiciary to say that where it appears that somebody is likely to continue committing a crime that person is going to have to prove to the court that they ought to get bail,

because the presumption will be that they will not be allowed bail but will remain incarcerated.

This bill also raises some pragmatic issues. Members will be aware that I announced late last week that the Belconnen Remand Centre is more than at capacity. Putting in nearly $1.5 million more, we are able to provide 15 extra beds. It seems to me that this legislation will put even more pressure on the remand centre; that we will still need to move people on remand into New South Wales; that we will probably still need to use the court cells on some occasions. The judiciary is working very hard to avoid this. We are working also to establish and build a new remand centre as part of the prison project. I hope to bring that back to members before the next sitting of the Assembly. I hope to have it through cabinet late in May. So there are some practical issues, and I ask members to keep that in mind that we are working to resolve those.

When we change legislation like this, there are some pragmatic issues. But the most important pragmatic issue is how we stop burglaries occurring in our homes? When you ask whether this legislation is an undue trespass on liberty, I have to say that, as I indicated to Mr Stefaniak some weeks ago, I will be supporting the legislation because it is clear that when somebody has committed a crime and is charged with a crime and they are charged with the same crime yet again something is not working and the community needs our protection.

It was not an easy decision to come to. Mr Stanhope indicated that he also had some difficulty in coming to this conclusion. The scrutiny of bills committee, in providing its advice, concludes by saying:

> Is this a circumstance warranting special treatment, or is this step an undue trespass on the personal rights of the accused? The rights in issue are the right to liberty and the presumption of innocence.

It asks a question. The answer to the question is that it does warrant special treatment. It is a policy question put to us. I think the community is saying to us that we need to have more action in this area and we need the power to prevent people from invading other people's homes.

With the same sense of reluctance as Mr Stanhope, but with a sense of purpose and the belief that this is the right decision, I have no hesitation in supporting the legislation from Mr Stefaniak.

MR RUGENDYKE (11.52): I simply wish to record my strong support for this legislation. It is more than timely to look at this issue of bail, particularly for serious and recidivist offenders. For far too long the Canberra community has been frustrated, cynical and concerned about the revolving door attitude that has prevailed over the last couple of decades where serious offenders simply walk in one door and out the other. It is far past the time we should challenge the view that bail should be a right. I fully support the change to the presumption regarding bail.

As Mr Moore points out, the downside might be increased pressure on the remand centre, but that is a consequence we will have to live with. We will have to move speedily to a resolution of the prison and remand centre project to alleviate the problems so that we can keep our people in the ACT and not have to send them interstate.

I support the use of facilities such as the court cells and the Periodic Detention Centre for remandees where necessary, if that is appropriate. I have not visited the Periodic Detention Centre, but that may well be a useful facility for remandees.

Mr Moore: It requires significant modification.

MR RUGENDYKE: I am told that it requires significant modification, so it may not be appropriate. We need to do all we can to protect the community from the growing problem of recidivist offenders. I also believe that we need to be serious about people sentenced to jail who have been able to walk out of the court before their sentence comes into force. The granting of bail for sentenced offenders is, in my view, a weird idea. That ought to be changed.

Mr Speaker, I fully support these amendments to the Bail Act. My only disappointment is that Mr Stefaniak tabled these amendments instead of me. I would have been happy to do it myself.

MS TUCKER (11.54): The Greens will not be supporting this piece of legislation. We are very concerned about the trespass on rights that Mr Moore spoke to. We have a different answer to the question that was posed by the scrutiny of bills committee.

We understand that the importance of bail in our system is that it recognises the gap in certainty between someone who is charged with an offence and when a decision is reached based on a thorough examination of the evidence against and for them in a court of law. It is part of the way we protect our citizens from being arbitrarily deprived of their liberty.

This is based on a couple of principles fundamental to our system of democracy and rule by law. They are the presumption of innocence until proven guilty and the right to liberty unless by process of law. They are not only Australian principles. They are principles articulated in the internationally agreed instrument the International Covenant on Civil and Political Rights. Australia is a signatory to this covenant, which is one of the fundamental human rights treaties passed by the UN Council in 1966 and is legally binding. Australia ratified it in 1980 with a number of reservations which do not limit our nation's commitment to this matter. The relevant article is 9.3, which states:

> Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

In our legal system this right to liberty, based on a presumption of innocence, is weighed up in each case against the safety of the community and alleged victims and the need to ensure that a thorough trial can go ahead; that neither evidence nor the accused go

missing. In our existing Bail Act, the authorised officer or the court must consider all of these matters as set out in section 22 for adults. Children have a different set of criteria at section 23.

The decision should be made with reference to the particulars of each case and in a way that can be reviewed. I am making these comments now because from the scrutiny of bills report, the government's response and what Labor has said in some of the discussion today—there actually has not been any discussion on it, but there is a discussion about common law right to bail—we do not think it is the most important question at all, although obviously other people have changed their positions on that, because it has not really come up.

As the scrutiny of bills committee put it—I am paraphrasing a little here—the question before us, as Michael Moore says, is whether this is appropriate legislation. Is this a circumstance—the people affected having been charged but not yet tried—which warrants special treatment, or is this step an undue trespass on the personal rights of the accused? The rights in issue are the right to liberty and the presumption of innocence. These are the ethical matters for us to consider here in this place. They are very serious matters, and we must not blithely whittle away these rights. That is how the basis of our democracy and judicial system can be lost. That may sound to some of the members here an exaggeration. It is just another little change. The problem is that all these little changes are building up.

There are some merits to this legislation, but on the whole the Greens feel that we have to oppose it. We will not attempt to amend it, because it is clear that the majority of this parliament thinks that this is a supportable piece of legislation.

We think it is not acceptable to support the addition of this new circumstance in which there is a presumption against the general entitlement to bail for a person accused of a serious offence allegedly committed while the accused person was on bail for another serious allegedly committed offence.

I need to remind members that when we say "serious crime" in the context of this bill it is about the length of maximum prison sentence, which is five years or more. As members have already said, this legislation is mainly about property crime. We have heard members say here today that they recognise that most of the property crime in the ACT is drug related.

Problems with the remand centre have also been brought up as a pragmatic consequence of this bill being passed. I would say to members here that there is a much greater consequence which we need to focus on: the fundamental principles of our criminal justice system and protection of people who get involved in it.

Our existing Bail Act, which I understand is not perfect, sets out the principles to be considered when deciding whether to grant bail in a balanced way. In particular, in section 22, which is about adults charged with offences that are not minor, there is a list of matters which must be taken into account, covering the probability of the person appearing in court, the interest of the person charged (spelled out in three subparagraphs) and the protection of the community, which includes the likelihood of the person committing an offence while released on bail.

In other words, there is already a requirement to consider likelihood of reoffending. I understand that in practice this includes consideration of when someone is on bail with a charge against them. But this assessment is made properly, balanced against these other principles. This bill seeks to isolate one aspect of the decision and prioritise it at the expense of civil liberties on which we all depend and which I thought we all valued, whether or not we are aware of the importance of them in our everyday lives.

There are exceptional situations in which the presumption to bail is reversed—for domestic violence offences and for someone who has already been convicted of an offence but is preparing an appeal to that conviction. In the first case, domestic violence, while the case is not proven at this point, the risk to persons—the risk to life—is so immediate that there is a strong case for refusing bail. The consequences are too great. The exception is subject to an assessment of the likelihood of danger to the relevant person, the alleged victim, and this process and presumption against bail are there because of the specific nature of that offence.

In the case of someone already convicted and preparing an appeal, it is different again. In some sense you could say that the thorough examination of the evidence is not yet complete. However, there has been at least one major process towards it. The legal process, which we would presume to have been conducted properly and justly, though clearly this is not always the case, has completed its first step, and so we have a reasonable basis for considering it likely that the person is guilty of one offence.

These situations differ from the case the government wants us to add. In this case, the accused has not had their day in court, we cannot be sure of the evidence, and we must presume that they are innocent. The arguments which we hear in support of lessening the effect of these principles for the people of the ACT, from both Labor and Liberal and other members, are that the community has a right to safety. This is certainly true. We know how awful the repeat burglaries are, and we have seen recently one or two notorious cases where someone has allegedly reoffended—thefts and robberies of an alarming nature, it is true.

But we are here to represent people and to consider thoroughly all the implications of changing the law. We must ask ourselves why this is happening. What are the possible means of addressing those causes? What are we doing that is exacerbating those causes, if anything? Then we are prepared to assess what will be affected by the various means of addressing the problem and, finally, what is the best solution. They are basic questions, but I cannot see that these have been answered by the government or its supporters in this matter. I am not surprised that Mr Stanhope took so long to speak in response to this bill, because he has such an unclear position.

This bill is supposed to address the high impact of repeat offender burglaries in Canberra. The police say they are fed up with watching people whom they know are guilty reoffend while they are released on bail for a burglary or some other offence. Given that we do have a balanced set of criteria to which the decision to grant bail is legally supposed to have reference, what is going wrong here?

We have been given only anecdotal evidence that there is a problem with repeat offenders whose repetitions have been carried out while they were on bail. There are no statistics to see whether there has been an increase in this happening or whether there is a decrease or to see anything about it. The main evidence is that when particular people who had been found guilty of burglary were locked up last year there was a sharp reduction in the number of burglaries. This indicates that a small number of people—the police estimate 10 to 12—are responsible for 40 to 50 per cent of the burglaries in the ACT.

The changes in the bill will reduce the importance of a balanced assessment of all the factors relevant to the decision to deprive an untried person of their liberty on the basis only that they have been accused of two crimes where the maximum penalty would be five years imprisonment or more. Two accusations of stealing new mountain bikes, for instance, and you are not entitled to the full consideration of all the factors and you no longer have an entitlement to bail. Instead, there will be a presumption against bail for you.

There is a strong feeling in the community about people who have been proven to have offended several times while they were on bail for previous offences which it turned out later they had committed. There are strong feelings about repeat burglaries, and the Greens, as I said, do understand this. But this is not an appropriate remedy when we are talking about people who must be presumed innocent.

It is of concern to me that we are getting a lot of support from people in the legal sector for the position we are taking on this. I listened to Mr Stanhope's concern about that as well. I am also particularly concerned about the use of anecdotal evidence to support this proposal. It is not a thorough enough analysis that we have been presented with here. I have received contrary anecdotal evidence from people working in the profession about how easy it is to get bail. There is probably anecdotal evidence to support either position. The fundamental issue we have to deal with here is the presumption of innocence.

Just quickly, I would like to also look at proposed new section 9A (2), which states that the court or an authorised officer must not grant bail unless special or exceptional circumstances justify it. Mr Stanhope mentioned this. What circumstances are they? Mr Stanhope said he would be interested to see. I am sorry, I do not think that is good enough. We do not just say, "We will see what that means." We are creating law in this place, and it is very concerning that the definition of this is not spelt out.

My office was told that in the courts or in other places where special or exceptional circumstances must be argued it would be enough to have a good network of support among family and friends. If this means that it would not have a great effect in practice—I have heard the argument that I should not be worried, because it will be meaningless in practice—then why are we doing it? It is being done, apparently, to send a message to the community that we are being tough on law and order. But we are being pretty damn soft on democracy and fundamental principles of protection for people involved in the criminal justice system.

If you look at the next proposed new subsection, you will see that it qualifies the acceptance of these special and exceptional circumstances by saying that, even if there are just circumstances, the court or officer must refuse bail if satisfied that refusal is

justified, having regard to section 22, for adults, and section 23, for children. What does this mean? The language implies a further search for grounds for refusing bail. It is not clear that the officer or court must assess the reasons in favour of granting bail. The tone is about finding reasons in sections 22 and 23 to counter the special and exceptional circumstances.

I do not believe that this will have no effect. It is a poor argument for changing the law. The potential consequences of this change include opening the way, in exceptional circumstances, for victimisation, and unknown costs to the public purse and greater impacts on people we must still presume to be innocent.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (12.09): Mr Speaker, I think I just heard Ms Tucker say that there was no evidence to support this bill. Operation Anchorage has now been running for about nine weeks. During that time, 139 persons have been apprehended. Sixty-five per cent of those had previous charges for burglary or receiving stolen goods and 20 per cent, or 27 persons, were already out on bail. Seven were arrested twice during that time, and one individual was arrested four times. I would have thought those statistics clearly say that this bill should go through.

MR STEFANIAK (Minister for Education and Attorney-General) (12.10), in reply: I thank members for their comments, especially the Leader of the Opposition, Mr Stanhope, for his very detailed comments. I was very happy to hear Mr Stanhope mention the Law Reform Commission. These amendments, or things similar to them, have been talked about for some time. In working up these amendments, I worked fairly closely with the Chief Magistrate, who was on the Law Reform Commission. I also kept in contact with Justice Crispin, who also was on the Law Reform Commission.

In fairness to Mr Chenoweth, I read very carefully the *Canberra Times* comment. I also mentioned to him on several occasions that I was doing this. I note that he refers to the federal government not going ahead with the heroin trial and some problems in relation to where people would be housed. They are the two matters that he is reported in the *Canberra Times* as mentioning. That report is reasonably consistent with discussions I had with him in relation to this bill.

Mr Speaker, this bill is very much a commonsense response to a practical problem. As Ms Tucker conceded, the Bail Act 1992 is by no means perfect. The Law Reform Commission is looking at other areas of it, and Justice Crispin advises me that, hopefully fairly soon, they will have some additional comments in relation to other parts of it.

There is certainly a very pressing need. Ron Cahill has mentioned a number of times that the courts feel constrained by the legislation, with its presumption in favour of bail, except in those two circumstances which Ms Tucker mentioned—domestic violence and where someone has been convicted, has been sentenced and has appealed. Those are cases where the test of special and exceptional circumstances is applied. So there is some precedence for the courts to work on.

This legislation is not dissimilar to legislation in other parts of the country. Victoria and Western Australia, for example, have similar legislation. I looked very closely at that. Victoria deals with indictable offences. Indictable offences there are offences with

penalties from about 12 months imprisonment onwards. Acknowledging some of the comments made by Mr Stanhope and Mr Moore, the government felt that that probably would be a bit too restrictive. We looked at Western Australia, which is a bit more similar in terms of the serious nature of offences, and we settled on five years, as I said in my tabling speech, because of the types of offences it encapsulates.

This bill will have most effect on burglaries. Blind Freddy can tell you that burglaries are a real problem in this community. The community expect answers. It seems that the courts too want answers and guidance from this legislature. I am delighted that today we will give them that assistance and guidance. The community, the many thousands of victims of burglaries, will benefit especially from this legislation. I think a number of criminals too will benefit from this legislation, which a few people do not seem to appreciate.

Mr Clack reported on this issue in the *Canberra Times* on Sunday, 25 February. This might be anecdotal to Ms Tucker, but it accords with my experience of working in the courts in this town over about a 15-year period. In that article Mr Clack stated:

> It is understood the committee will recommend that anyone who reoffends should be denied bail from then on.
>
> One senior police officer said last week this would have the effect of more than halving the burglary problem.

I do not know whether it is going to do that, but if repeat offenders who commit multiple burglaries get bail and come back two or three weeks later having committed another 15 or 20 burglaries, they will need to convince the court of exceptional special circumstances if they are not to be remanded in custody. That might well be very hard, and rightly so. That might lead to a lot of premises—businesses and houses—being saved from burglary.

Mr Stanhope, Mr Moore and Mr Rugendyke are quite right. Burglary is probably the main area where this bill will impact. There are other areas too. For example, persons who have committed armed robberies in recent times have got bail and, whilst on bail, committed further serious offences, including further armed robberies. My staff mentioned to me a female offender who committed three or four very serious offences—armed robbery and something else—prior to having her matter finalised.

Mr Stanhope said that he supports the bill with reluctance. At least he is supporting it. He stated quite correctly what the Law Reform Commission suggested in 1998. He is correct in saying the DPP and the police argue strenuously for bail to be refused. As I have indicated, the courts themselves sometimes feel constrained by the presumption in favour of bail in all but those two earlier cases I mentioned which are currently contained in the Bail Act. As a result of this legislation, that will change and there will be one other reversed presumption in relation to these serious offences.

A lot of property crime is related to substance abuse. If desperate people who have immense personal problems are kept in the one spot, as they would be if they were in custody, there may well be a chance that they can start on the road to kicking their substance abuse by getting the assistance they need. In some instances, far from denying them justice, it might make it easier for their counsel to see them and to offer assistance.

I hark back to my days in private practice. I am sorry, this is probably more anecdotal evidence, Ms Tucker. Over the time I practised law, I had a couple of clients who were in custody, but at least they were in the one place, and you could represent them. Unfortunately, both of these two were out for a period of time on a number of offences, and they were difficult to find and to assist. So there may well be some benefits in terms of representation and assisting people with their medical problems and assisting them in rehabilitation for their substance abuse.

I disagree with Mr Stanhope when he says he thinks this bill will have little impact on the level of property crime. Senior police officers stress that bail has been one of the main impediments to the police being able to do their job properly, and concern has been expressed in wide sections of our community. I suspect that we might well see a reasonably significant impact on property crime and see other serious crimes decreasing as a result of this commonsense measure.

Mr Stanhope indicated that the bill does not address the root causes of crime, but he did concede that there are other ways of doing that. Maybe it does not but at least it stops people who are potentially going to reoffend from doing so, and it gives them the potential to perhaps start addressing some of the root problems that they face and that might have led them down the path of a life of crime to start with.

I agree with Mr Stanhope that this bill sends a clear message to our courts that the community wants action. I indicated earlier that the courts themselves have requested that we do something along these lines to assist.

I thank Mr Rugendyke for his support. I agree entirely with what he said, and I am delighted that he is happy with the bill.

I will briefly comment on a couple of points Ms Tucker raised. Ms Tucker sees this bill as a trespass on persons' rights. What about the rights of the community? I think we have to have a balance. Quite clearly, the majority of this Assembly is saying in this instance that the rights of the community are more important than the rights of the alleged offender.

Ms Tucker also made a comment about the bill not being consistent with our fundamental tenet of people being innocent until proven guilty. That has been eloquently answered by my colleagues Mr Stanhope and Mr Moore. If you went through with that argument, it would mean that no-one would ever not be granted bail until such time as their matter was finalised and they were convicted, and then the only time they would perhaps be refused bail would be if they appealed against their conviction. I think you can take that to a ridiculous extreme.

This is a commonsense measure which we have seen in other jurisdictions and which the Law Reform Commission was keen to see implemented as a result of concerns expressed by some members of the judiciary. It is clearly very timely. Our police have been screaming out for it. It will have a not insignificant effect in combating crime. It is something the community clearly want to see this Assembly do. I thank members who are supporting the bill, and again I commend the bill to the Assembly.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 14		Noes 1
Mr Berry	Mr Moore	Ms Tucker
Mrs Burke	Mr Quinlan	
Mr Corbell	Mr Rugendyke	
Mr Cornwell	Mr Smyth	
Mr Hargreaves	Mr Stanhope	
Mr Hird	Mr Stefaniak	
Mr Humphries	Mr Wood	

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Court Security Bill 2000
Detail stage

Clauses 1 to 4.

Debate resumed from 1 March 2001.

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

Government Procurement Bill 2001

Debate resumed from 1 March 2001, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (12.25): The opposition will be supporting the passage of this bill unamended. It is the product of the deliberation of the select committee on procurement. The board that is established has review powers, powers to set guidelines and powers to monitor. We think it is a constructive move.

The only departure from the original report by the select committee that I can divine is in the structure of the board. I think the committee recommended that we not have private sector people on the board, given that they may be interacting with government. But the board is balanced, with three public sector employees, and clause 20 covers disclosure of interest. We are prepared to live with that and to support the bill.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (12.26), in reply: Mr Speaker, I thank the opposition for its support for the bill. It is true that the recommendation from the committee was originally that there should be no private sector members. The government's original intention was that the board be chaired by a private sector member. The compromise the government has made here is that we do include private sector members but we do not allow one of them to be the chair of the board.

The board will be a positive step forward in dealing with a number of contentious procurement issues the territory is facing, and I look forward to being able to consult with the relevant committee about appointments to that board.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

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

Low-alcohol Liquor Subsidies Amendment Bill 2001

Debate resumed from 29 March 2001, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (12.28): The opposition will be supporting this bill. This bill facilitates continued payment of low-alcohol liquor subsidies beyond 30 June of this year to allow the Commonwealth, states and territories to get their acts together and agree on a uniform regime. I am pleased to announce to the house that I have found two light beers that I quite enjoy, and I am very happy to support this bill personally.

MR SPEAKER: Mr Humphries, can you add to that?

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (12.29), in reply: I am deeply gratified that Mr Quinlan has found a light beer that he enjoys. Mr Speaker, I thank the opposition for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.29 to 2.30 pm

Questions without notice

Canberra Hospital

MR STANHOPE: My question is to the minister for health and community care. Can the minister confirm that the Canberra Hospital has exceeded its contract with the government to provide health care services? Can he confirm that the hospital has provided more services than it was contracted, and paid, to provide? If so, what is the amount involved, and what steps have been taken to fund it?

MR MOORE: Mr Speaker, I will take the details of Mr Stanhope's question on notice and make sure I respond in an appropriate way. Yes, the hospital has exceeded the amount of work that it has been contracted to do. The method of dealing with that is a matter of negotiation between the purchaser, the department, and the hospital. Through that purchase agreement, we resolve the issue as to what it is that they have been expected to do and where they have gone overboard. The access for funds for that is through the cross-border funding.

MR STANHOPE: I thank the minister for his answer and for his undertaking to provide further detail. In the event that the Canberra Hospital or any other provider of health services has exceeded its contract for the provision of services, is it expected to close its doors when it has reached the extent of its contract, or to simply control demand, so to speak? What is the rationale behind a contract to provide health services that imposes such an arbitrary limit on the quantum of those services?

MR MOORE: There are tools that a hospital has to maintain its throughput to deal with demand in some areas and to be able to trade off for another. The purchase agreement is an agreement between the hospital as to what it believes is possible and between the department of health as to what it believes is appropriate in health care delivery services. We know that in some areas we have had an increase in demand. For example, renal and emergency are areas that have gone over. It is possible for the hospital to deal with that by reducing elective surgery. That, of course, increases the waiting lists. That does not suit my agenda and it does not suit the agenda of the department. Therefore, we look at other ways to resolve those issues. There is a contract in the initial instance, and then amendments to that contract through a process of negotiation.

Healthpact

MRS BURKE: My question also is to the minister for health, Mr Moore. Minister, there have been reports that you have made changes to Healthpact in the last few weeks. Will these changes undermine the independence of the Healthpact board, and will they undermine health promotion across the ACT?

MR MOORE: Thank you for your question. There have been some administrative changes made to Healthpact but not to the board. As members would be aware, the Health Promotion Board was established under legislation. The only way to change that or to have an impact on the way Healthpact and the board operate is by coming into this house and changing the legislation. The government has no intention of doing that.

Some administrative changes were made and I think they will give far better health promotion outcomes for the people of the Australian Capital Territory. Mr Humphries will be announcing an increase in funding for health promotion this afternoon in the budget. What we do know, and it is fundamental to normal health promotion processes, is that where you can get people working together with networks you get a much better outcome. So we are very keen to see healthy cities working very closely with Healthpact on health promotion issues. The fundamental issue is that the Healthpact board was established under the Health Promotion Act. It remains governed by that act and will deliver its services according to that. What we see are some administrative improvements to get better health outcomes.

Burnie Court

MS TUCKER: My question is also to Mr Moore as the minister for housing. In regard to your announcement today that you have taken the next step towards redeveloping the Burnie Court public housing complex, can you clarify whether the government's intention is still to purchase individual units within private blocks so that the site will be pepper-salted with private and public housing as promised by staff at ACT Housing over the past year and in previous commitments by you? Can you also tell us whether or not there will be a mix of housing for different age groups within that complex?

MR MOORE: Thank you, Ms Tucker, for the short warning that you were going to ask a question to that effect. I brought down with me the master plans that have been prepared and put into the department. I think you will be able to read from there—

MR SPEAKER: Be careful.

MR MOORE: I will make these available to members if they would like to have a look at those.

MR SPEAKER: Yes, you will.

MR MOORE: Mr Speaker, for your sake, if Hansard want a coloured version of these, I would be happy to table them and see how they would print. I am just letting members know that they are available and I will make them available to them. The development plans have gone in to PALM, who will now consider them. ACT Housing did that last night or some time yesterday. We still intend, through Housing, to make sure that there is purchase of public housing within this framework.

One original intention was to demand of the developer that public housing be built in amongst the other housing. My thinking at the moment, although we have not come to a final conclusion, is that it is more effective to allow them to build it and to use the money that we gain from selling them to spot purchase. In that way they will not be built to a lower standard than the houses around them. I think that may be a more effective way. When I say spot purchase, that means purchasing from the plans. I will be interested in members' views on that.

Mr Wood: How many?

MR MOORE: We spoke of in the order of 20 to 30 per cent housing in there. We would still be looking at a high percentage of public housing in that area. Ms Tucker, you might remind me of the other question you asked.

Ms Tucker: Is it just for older people or is it a mix?

MR MOORE: Yes, the master plan indicates aged persons housing as part of the plan. You will see that when you look at the master plan proposals. But the plan has to be considered by PALM in the normal course, and alternative approaches may be suggested.

MS TUCKER: I have a supplementary question. I think you said there was a mix of ages to be accommodated. Given your commitment to adaptable housing or housing for life, have you considered methods such as conditions of sale or through the development control plan to ensure that all of the units across the site, in the privately built area as well where you will have a mix, will be designed according to housing for life principles?

MR MOORE: Ms Tucker, we will certainly take that idea and make sure it is incorporated at least to some extent. I will come back to you on the extent to which we should make that as a demand of the development process when the land is auctioned. I expect that the land will be auctioned.

Floriade

MR BERRY: My question is to the Minister for Urban Services. Last week the Chief Minister announced that the Floriade fee was to be ditched, after years of tourism and community agitation over the issue. I think the relief in the community was palpable. There was a chorus of victory songs amongst the many who have been on this campaign for so many years. The Floriade liberation army were ecstatic about the success of their long campaign. Charles Ironside, a frequent letter writer to the *Canberra Times* on this issue, was also very happy. So this campaign has been rewarded at last with the government being ground into the dirt by the community over this issue.

MR SPEAKER: I am checking the ironical expression part of standing order 117. But go on, Mr Berry.

MR BERRY: The killjoy from this minister was the announcement that the hated black fence was going to stay. I hear on the tom toms, Mr Speaker, that the Floriade liberation army have not given up on that one yet. I notice that trucks and earth moving equipment are going about their work on the site, and a fence is not needed for them. There was never a need for a fence before Floriade was held.

MR SPEAKER: Please ask your question.

MR BERRY: Could the Minister for Urban Services tell the Assembly whether there is a contract to erect the fence at Floriade and, if so, when was it let?

Mr Moore: The question was longer than my three answers put together.

MR SPEAKER: Indeed. I would remind all members and ministers that we have only half an hour.

MR SMYTH: Mr Speaker, the curious thing is that Floriade has continued to grow each year. I forget what the figures were for last year but I think it grew 13 per cent over the previous year. The number of local visitors grew 10 per cent. We know this because we count the number of people coming through a gateway. In order to have a gateway we have to have a fence. Clearly, one of the important functions of having a fence is that you can monitor how successful the function is and whether it is really growing. That is the first reason why you would keep the fence.

Secondly, even before the fence went up—

Mr Berry: Was there a contract let?

MR SPEAKER: Order! I have no doubt the minister is aware of the question.

Mr Berry: Was there a contract let and when?

MR SPEAKER: Sit down.

MR SMYTH: The second point, of course, is that even before the fee to enter Floriade was applied and the fence was first erected we were starting to have acts of vandalism.

Floriade is a very important site and a very important function for the territory. Under us the event has grown. We have made it better in respect of scale and size. Also, ancillary things like coffee shops, restaurants and sellers of different sorts of products that are housed in tents need security, and the intention is to keep the fence because it offers a sense of security. There is also a need for security during the setting up and taking down of the event. It is a construction site and normally around a construction site we would have some sort of protection for people working on the site and people going past and so on. I will have to find out the details of the contract for Mr Berry.

Court order to return child to family

MR RUGENDYKE: My question is to the Attorney-General, Mr Stefaniak. Minister, today the *Canberra Times* reported from the ACT Supreme Court that a three-year-old girl was assaulted within four days of being ordered to be returned to her family. What reasons were given, if you are aware of them, by the justice for returning the child under this order?

MR STEFANIAK: I thank the member for the question. Yes, I recall the report today and I think I may have some recollection of when the case was decided. But I would need to get back to Mr Rugendyke to do full justice to an answer to that part of his question. I will make some inquiries and get back to you in relation to that. It is certainly a disturbing report but I will need to refresh my memory as to exactly what in fact the situation was when the initial order was made.

Building industry—private certification

MR HARGREAVES: Mr Speaker, my question, through you, is to the Minister for Urban Services. Minister, the discussion paper on the review of private certification in the ACT building industry released last April showed that building complaints to BEPCON rose nearly 100 per cent from just over 100 in the six months pre private certification, to just under 200 in the six months following its introduction. Minister, why did these complaints increase?

MR SMYTH: Mr Speaker, that is the whole point of the review. We said that when we introduced the legislation we would look at what its effects were. The review has been done and I now have the paper back. As we do when we introduce any new legislation, we will look at how effective it is, how it works and whether it needs to be modified or left as it is. That is the reason why we have had such a review. I have now received the consultant's report. We are considering that and I will release it shortly.

MR HARGREAVES: Mr Speaker, I have a supplementary question, given that the minister did not answer the question about why the complaints increased. Can the minister say if any action has been taken by BEPCON in relation to non-compliance with building regulations by private building certifiers since the introduction of the scheme?

MR SMYTH: Mr Speaker, of course, we have a compliance section. We take very seriously our obligations to make sure that the law is upheld. I do not have the detail with me of the number of actions that BEPCON have taken. I will be happy to inquire on behalf of the member as to what actions have been taken and the outcomes of those actions.

Red Hill housing precinct

MR CORBELL: My question is to the Minister for Urban Services. Minister, a few sittings ago in this place the Assembly resolved to request you to direct the ACT Planning Authority to review the Territory Plan to ensure that no more than one dwelling per block was permitted in the old Red Hill housing precinct. What action have you taken to implement or otherwise the resolution of the Assembly.

MR SMYTH: Mr Speaker, I sought advice from PALM in respect of the Assembly's resolution. I have now received that advice and will make a decision shortly.

TransACT

MR QUINLAN: My question is to the Chief Minister. Chief Minister, could you bring us up to date on the quantum of shareholding that the government has in TransACT, presumably through the equity held by the Actew shell?

MR HUMPHRIES: I thank Mr Quinlan for that question. I have taken a question this calendar year from Mr Osborne on this issue. My recollection is that Actew's shareholding was in the vicinity of 20 per cent. I am afraid I cannot tell you what the percentage held by particular parties to that shareholding might be. I will take that question on notice and give you an answer as soon as I can.

MR QUINLAN: Mr Speaker, as a supplementary—and I guess this will be placed on notice as well: are you aware of any prospective issue of shares to, say, staff, management or directors and who might so benefit?

MR HUMPHRIES: Mr Speaker, no I am not aware of that. I am aware that there is to be a meeting of Actew's shareholders, I believe next week, at which issues of that kind might be raised. I will take up at that meeting what Mr Quinlan has raised with me and find out whether there is any question of that. I am not aware of it.

I might be able to answer a question that was asked earlier. As you know, Actew is one of a number of shareholders in TransACT, with an investment commitment totalling $30.3 million or a 26.8 per cent shareholding. An initial investment of $11 million was made while the company was a project within Actew. After TransACT became a stand-alone company, Actew received 16.666 million $1 shares effectively in return for its contribution of intellectual property and dedicated assets that were developed in the initial stages of the project. Under the TransACT shareholders' agreement executed in May 2000, funding of the development and roll out of the TransACT network was agreed and provided by a full board of TransACT to make calls on the shareholders from time to time. At that stage, draw downs were expected to cover a period of two years but were not specified in the agreement.

In January 2001 the TransACT board approved an accelerated development plan which requires Actew to fund the remainder of its investment, $19.3 million, before the end of November 2001. The first call payment of $3.4 million was made in February of this year. However, some uncertainty surrounds the dates of future calls on the remainder of the investment—that is, about $15.9 million—as these will depend on equipment availability and construction progress.

I am also advised that TransACT's fibre-optic network is totally digital and will furnish Canberra with one of the most advanced communication infrastructures in the world. Broadband is the latest technology available to the world with high band width intensive services. It is worth noting that the shareholder draw downs in total provide in excess of $100 million which will be applied to this major infrastructure project of real significance to Canberra's future as a centre of excellence in information communications. The significant investment that is being made by this process will provide about 300 jobs during the construction period.

As I have said, I will take up with TransACT and Actew the other issues which Mr Quinlan has raised with me.

Public exercise stations and trails

MR HIRD: My question is to the minister for sport, Mr Stefaniak. Has the minister received a report from the National Heart Foundation titled *A Review of Public Exercise Stations and Trails in the ACT*? If so, can the minister advise the parliament of its recommendations?

Mr Moore: It also involved Urban Services and Health.

MR STEFANIAK: Thanks very much, Mr Hird. My colleague Mr Moore interjects, rather quietly for him, that it was very much a combined effort involving also Health and Urban Services, which I acknowledge. On Friday last, 27 April, Mr Smyth and I received a report from the National Heart Foundation titled *A Review of Public Exercise Stations and Trails in the ACT*. The ACT government provided a $40,000 Active Australia grant to the National Heart Foundation to undertake that review. It identified some 19 public exercise stations in the ACT, most of which were built in the late 1970s and early 1980s. People are probably well aware of those.

The results of the review indicated that the majority of the ACT community did not commonly use exercise stations around the ACT. Exercise stations consist of logs on which you do step-ups. At some stations you can step through logs. I do not mind that one so much.

Mr Moore: What about bench presses?

MR STEFANIAK: I do not know about bench presses. I do not think you can do bench presses. You would need to bring your own weights. You can also do chin-ups there.

Let me digress slightly. As I indicated at the launch, I can understand why some of these stations are not as popular as they could be. I always had trouble myself with chin-ups. I could never see why anyone would want to run around a perfectly good walking trail and then go through some of these amazing exercise stations. As I was saying at the launch on Friday, back in the early 1980s I was doing an officer and NCO mortar course at the infantry centre in Singleton. As anyone who has been in the army would appreciate, the PTIs, the physical training instructors, are all bombardiers. They are in artillery. They have the rank of corporal but are called bombardier.

We had to do our physical training tests, which for someone my age included 10 chin-ups on exercise bars. I could do the 5-kilometre run, no worries. I could do the sit-ups no problem. But chin-ups are very difficult if you are a big bloke.

Mr Hargreaves: What, getting your feet off the ground?

MR STEFANIAK: That was a real problem. I was an officer then, so the bombardier called me sir. He said, "Sir, extend your arms fully; otherwise you fail." I did that and my feet touched the ground. The bombardier said, "Get your feet off the ground, sir. You can't cheat." I said, "Bombardier, I am over six feet tall. This is for a six-foot tall person." He failed me, which I thought was most unreasonable, because I found myself in a catch-22 situation. I tried to say, "What if I lift my knees and do it that way?" But no.

I can understand why people do not like some of those exercise stations. They serve a purpose, sure, but it seems that people do not particularly use them. The key recommendation from the review was that further development of walking and cycling paths is likely to encourage greater physical activity in our community. We see building cycling paths and walking paths as a priority. Canberra, with its beautiful climate of four distinct seasons and its great natural beauty, is ideal for outdoor activity, be it walking or cycling.

Whilst we have the highest participation rate of any city or state or territory in the country, nationally the number of people walking has dropped a bit in the last couple of years. It is important to encourage everyone to get out there and be physically active. The easiest way is simply to go for a good walk. Whilst we have some excellent cyclepaths, I think we need more. My colleague Mr Smyth launched a pilot project entitled the Canberra community walking path project as part of the social capital initiatives, to encourage greater activity and people undertaking moderate physical activity such as walking.

Burnie Court

MR WOOD: I want to follow up Kerrie Tucker's question about Burnie Court. I think Mr Moore said that 30 to 40 per cent might be public housing.

Mr Moore: Twenty to 30, I said.

MR WOOD: Could you be more precise? You have allocated one block in that area for older persons units. When you talk about public housing, do you include that in it, as I guess you would? What percentage of the remaining four blocks that are not older persons units is likely to be public housing?

MR MOORE: Thank you, Mr Wood, for the question. I was giving a generic answer. In the public housing section there will be some 25 older persons units. We plan to retain a block of land at the Lutheran church end of Burnie Court to make sure we look after aged persons in this redevelopment. We propose to go to auction for the other four sections. We are then going to spot purchase those ones. I gave as a general indication 20 to 30 per cent.

Mr Wood: In those other four?

MR MOORE: No. I am giving as a general indication 20 to 30 per cent. We have not made specific decisions of the type you are asking about in your question. We will have to make an assessment of the costs of those units and how they compare to other units and other homes around them and purchase according to that. I am giving simply a broad indication, Mr Wood, of the sorts of levels that I think are appropriate for the area.

It is worth understanding that, if you take Burnie Court out of Lyons, Housing still owns something like 19 per cent of Lyons. We have a fairly intense presence in that area, and appropriately so. We should be making sure that our housing is fairly close to the city centres if we can.

MR WOOD: I will ask a supplementary question which is probably more of a statement. Does it not seem to you that there will be very little public housing other than those older persons units.

MR MOORE: I think it is worth remembering that the ACT carries in the order of 12 per cent of our properties as public housing. Compared to the Australian average of around 5 per cent, this is a very high level of public housing. When you take into account the level of income across the ACT, then you recognise that in socio-economic terms that is a very high percentage.

We have had quite a number of reports, the poverty task force report being one, emphasising that for a poor person in a relatively wealthy community the impacts are much greater. We need to take that into account. We also need to take into account the situation we have at the moment where private housing is quite tight and therefore there is greater pressure on public housing.

I remind members that our waiting lists for public housing have come down very significantly over the last few years. I think that in itself is an important aspect. The reason of course is a strong economy. The government has upheld its responsibility in a very positive way, as Mr Humphries will indicate very shortly in the budget speech, in providing this sort of situation.

The outcome is that we want to rework housing sites such as Burnie Court. We want to do away with the sorts of social problems that are there. We also want to make sure that we can achieve a reasonably socially equitable outcome. That is the purpose of public housing.

Yesterday ACT Housing put master plans into the Planning and Land Management section of Mr Smyth's portfolio. They expect that the normal process will be gone through with that development. It is my view that, with the normal steady progress, we should be in a position to begin the demolition of Burnie Court in the middle of the year. I think this is a sound thing. There is a lesson we have to learn from it. It is not just about the buildings. Most of you who have walked through Burnie Court will realise that intrinsically these are not horrible buildings. But we have a combination of the wrong sorts of buildings and a huge number of people who are allocated inappropriately to them. We have to make sure that our policies fit very closely with those things.

It being 3.00 pm, questions were interrupted pursuant to the order of the Assembly.

Appropriation Bill 2001-2002

Mr Humphries presented the bill, its explanatory memorandum and the following supplementary budget papers:

Budget 2001-2002—
Financial Management Act, pursuant to section 10—
Speech 2001-2002 (Budget Paper No 1).
The 2001-2002 Budget at a Glance (Budget Paper No 2).
Overview 2001-2002 (Budget Paper No 3).
Budget Estimates 2001-2002 (Budget Paper No 4).
Progressing Social Capital in Canberra.

Title read by Clerk.

MR HUMPHRIES: (Chief Minister, Minister for Community Affairs and Treasurer) (3.01): I move:

That this bill be agreed to in principle.

Mr Speaker, this budget charts a safe passage through an uncertain fiscal sea. It is an economically responsible budget—a budget that ensures we are genuinely living within our means. Above all, it is a balanced budget.

This budget delivers for the people of Canberra and delivers for one reason and one reason only: we have done the hard yards. We have had the vision, the ticker, and the focus to get the territory's economy into a position of strength. Without fiscal responsibility our social objectives would have been unachievable.

This government has shed a lot of blood, sweat and tears over the past few years to get the ACT economy back on course. After inheriting a $344 million operating loss from Labor, we have weathered the storm now with two successive budgets in the black. Labor put the budget on Bankcard. We have not only paid off the card; we have cut it up. Eliminating Labor's loss has turned a millstone into a milestone.

This budget delivers a modest surplus of a little over $12 million. It is not our goal to prise huge surpluses from the wallets and purses of the community. We aim for a balanced budget and we will achieve a balanced budget. Fiscal responsibility has enabled us to return an exceptional and carefully targeted dividend to the community. We will do this without borrowing; we will do this without raising any new taxes. We will do this by properly providing for our long-term liabilities, leaving our children largely debt free.

This budget is not just about balancing the books; it is also a budget with heart. It is a budget with heart because it offers help to families, to the elderly, to those living in poverty, to our indigenous population and to young people at risk. There is a very significant focus on health and education, and we make no apologies for that. Hospitals and schools are a high priority for the people of Canberra, and they are a high priority for us as well.

The community dividend we return today comes under three broad headings: innovation, early intervention and addressing poverty. Why these three themes? Innovation is about jobs and building Canberra's future. Early intervention is about confronting social problems before they start; it is about investing in our future. And addressing poverty is about our collective responsibility for and obligation to the disadvantaged in our society. These three themes reflect the government's investment in social capital, building a partnership between the community, business and government. They also consolidate our work over the past few years and build a platform for the territory's future growth.

There are two further themes to this budget: a commitment to the family and a commitment to fight both crime and the causes of crime in this community.

The family is the keystone of our social arch. While Canberra is undoubtedly one of the best places to bring up a family, as any parent in this place would know, the task is never easy. Many initiatives in this budget are designed to help ease the burden on Canberra's families.

Crime continues to be a major concern for the people of Canberra, and this budget again winds back the cuts Labor inflicted on policing when they were in power and puts more police into the community. We need to be tough on crime but also smart on crime. That

means addressing the major source of crime: the drug problem. This budget will see more resources for treatment and rehabilitation.

This budget also recognises the economic uncertainty that exists nationally and internationally. We understand the need to keep the ACT economy moving forward in order to provide both job growth and greater job security. That is why we today announced the territory's largest new capital works program since self-government began. This program will translate directly into jobs and increased economic activity. The value of new works committed in this budget is more than $214 million. Total capital works expenditure in 2001-02 will be in excess of $140 million.

Economic outlook

During 1999-2000 the ACT experienced unprecedented growth. This growth spurt was the strongest of any state or territory. Like any period of exceptional growth, it was not sustainable in the longer term. Not surprisingly, the ACT economy in 2000-01 has experienced a slower, more sustainable rate of growth. This lower growth rate reflects movements in the national economy over the past year. In particular, last year's employment growth of almost 5 per cent was clearly unsustainable.

This year's forecast is a more modest 2.4 per cent. As a consequence of this slower growth, we predict that the ACT will experience a decrease in gross state product from 4.9 per cent in 1999-2000 to 4.25 per cent in 2000-01. Growth at this level is expected to continue into 2001-02 and beyond, with 4.6 per cent forecast for 2001-02 and an average of 4.4 per cent for the subsequent three years. But we fully expect ACT growth rates to be higher than the national average.

Changes in state final demand are somewhat starker, declining from an exceptionally high 12 per cent in 1999-2000 to minus 1 per cent in this financial year. Reduced Commonwealth spending in the ACT has made a significant contribution to lower demand levels. Growth of 3 per cent is forecast for 2001-02 and an average of 2.7 per cent a year for the subsequent three years.

The government remains confident that the ACT will continue to perform above the national average as we still enjoy the lowest level of unemployment and have the highest work participation rate of any state or territory in Australia. It is also important to recognise that, while the territory is still affected by movements in Commonwealth government expenditure, this government will continue to strive for a diversified economy and growth in the private sector.

There are sound reasons to support reasonable growth forecasts in the ACT: Canberra is not a large player in the international market, so a downturn in the international trading environment will not have the same effect on the territory as on the rest of the nation. Business confidence remains positive, and the expected growth in jobs will translate into solid income growth and increased spending power for wage and salary earners in this community. Although business profitability has decreased slightly, it has come down from a very high base and is currently stable. Business surveys indicate a return to stronger growth levels as the national economy rebounds from the slowdown it is currently experiencing. It is, however, unrealistic to expect the growth to be as high as experienced in 1999-2000.

Commonwealth spending continues to be a significant influence on growth in the ACT and, with a federal election in sight, we can reasonably expect some growth in Commonwealth spending over the previous very lean year. Recent interest rate cuts and increases in the first home owners grant will also stimulate consumer demand and employment in all areas of the economy, especially the housing and construction industry.

Overall, this government's economic strategy includes these elements:

- balancing the budget;
- working to ensure the Commonwealth outsourced jobs stay in Canberra;
- targeting industry sectors with strong growth potential;
- promoting Canberra as the economic centre for south eastern New South Wales;
- keeping taxes in line with, or lower than, taxes in New South Wales;
- providing sound financial management;
- keeping the top credit rating, AAA; and
- remaining committed to microeconomic reform.

Draft budget initiative

This has been the second year running that the government has released details of the draft budget for consultation through the Assembly committee system. We do this because the community has appreciated the opportunity to have meaningful input into the budget process, even if the Labor Party has not.

This year we acknowledged complaints that the initial consultation process in the last budget year contained too much detail. Instead of releasing an entire draft budget, therefore, we released the draft budget initiatives together with costings of these initiatives as well as a capital works program.

More than a month was available for committees to study the initiatives and report. While complaints were again made about the lack of time, one would have thought that the reports would reflect a month's work by the committees. With a few exceptions—some notable—the committees have not shown any enthusiasm for the task. It is one thing to snub the government; snubbing the community is something you do at your own risk.

We have an enthusiastic government, an enthusiastic community and a recalcitrant Labor Party. Despite that, we remain committed to the consultation process and will look at ways to ensure that, in future, the community is not disadvantaged by committees that lack interest in the task.

Financial relations with the Commonwealth

This year was another successful year for the ACT with regard to Commonwealth/state/territory financial relations. We achieved increases in Commonwealth funding to the territory amounting to $92.8 million between 2000-01 and 2001-02. This increase, however, recognises the abolition of a number of state taxes and increased costs incurred as a result of national tax reform.

After taking these into account, the net increase in Commonwealth funding to the ACT for 2001-02 is approximately $55.5 million. The ACT successfully defended this increase in Commonwealth funding against a wave of ill-informed criticism from both the Victorian and New South Wales Labor governments.

The ACT is a donor state to the federation and, in per capita terms, is the largest net contributor. What that means is that, after analysing the amount of tax paid by Canberrans to the federal government and comparing that to the total amount of Commonwealth funding redistributed from the Commonwealth to the ACT, each and every Canberran contributes $1,460 more to the federation than we receive back. The ACT also has a very real case for additional funding on a number of grounds. For example, the ACT cannot levy payroll tax on its largest local employer, the federal government, and cross-border services to New South Wales involve considerable outlays.

Revenue initiatives

Mr Speaker, I am proud to say that this budget returns revenue to the people of Canberra. Most significantly, the government has decided, after community consultation, to return $10 million a year directly to the community through a reduction in motor vehicle and motorbike registration fees for both business and private vehicles. This means a cut of $58 per vehicle per year. Registration fees will be $17 lower than in New South Wales and will apply from 1 July this year. This measure will help reduce motoring costs, a major factor in almost every family budget. During 2000-01 the government put in place tax reform measures that have put more dollars back into the hands of residents and businesses.

Taxation measures to take effect during 2001-02 include:

- More Canberra businesses will be free of the burden of payroll tax. Payroll tax is nothing more than a tax on employment. Less payroll tax means more jobs. As announced in last year's budget, this government will increase the tax free threshold from $900,000 to $1.25 million from 1 July 2001, with a further increase in July 2002 to $1.5 million. This makes the ACT threshold the highest in Australia, reinforcing the national capital as a great place to do business.
- As foreshadowed at the commencement of the GST on 1 July last year, financial institutions duty and stamp duty on quoted marketable securities will cease to apply on 1 July 2001.
- As announced last year, the removal of the insurance levy will return $10 million to policy holders in the territory.

This return of revenue is a matter of keeping faith with the community. This money came from taxpayers' pockets in the first place. We have a surplus. We should return that money to them.

Expenditure initiatives

I now turn to specific expenditure initiatives. The budget contains a very large number of well-targeted initiatives, and I will be able to highlight only some of these in this speech.

Innovation is a centrepiece of this year's budget. This government has a clear vision for Canberra's future as a centre for innovation. This will help diversify our economy and make us less reliant on the spending patterns of the federal government.

Our citizens are highly educated and highly skilled. They are innovative and enterprising. Innovation is the future of our city. We are committing $11 million in 2001-02, including $4 million in capital expenditure, to establish Canberra Connect, an initiative that will greatly improve access to government services through shopfronts and kiosks, online and by telephone.

Canberra is set to become a national leader in photonics, with the provision of $300,000 to help establish a National Photonics Training Institute, the only one of its kind in Australia. Photonics is the technology of light and has a broad range of applications including high speed communications, data storage, medical imaging systems and sensors. This technology will pave the way for IT industry expansion and job growth. Some $450,000 over three years has been committed to help establish the OECD's Global Biodiversity Information Facility in the ACT.

More than $0.5 million has been allocated to help build the export capability of ACT firms. This will provide a funded export assistance program, export action plans, development of an export capability database and a pilot program of e-commerce for exporting.

Some $750,000 a year is being provided to the Canberra Tourism and Events Corporation to continue a consumer marketing and media campaign that will leverage off the Olympics and Centenary of Federation. The funding will also improve IT-based delivery of tourism information and reservation services provided by the corporation. Capital funding of $100,000 will also be provided to establish the Canberra Technology Park in Watson to support our growing multimedia and games industry.

One of the most exciting initiatives in this year's budget is the development of the virtual campus at the Canberra Institute of Technology. Costing $0.5 million in the budget year, the initiative provides for the development of an online virtual campus for the delivery of CIT programs through the Internet. This will enable students to undertake vocational education from their home or workplace.

An important innovation in our schools will be the establishment of an IT centre of excellence. Costing some $0.5 million a year, it will have a hands-on focus for teachers and students and act as a demonstration school of the future. We are also committing $150,000 a year as the ACT's contribution to the development of online curricula for schools through a joint federal and state/territory government project. A further $2.5 million will be allocated to extend the IT Schools Grants program for two years. This allows government schools to provide and maintain schools' IT facilities to give them access to the Internet and national online curriculum resources.

Innovation is also important in our justice system. More than $350,000 a year has been allocated for the introduction of home detention. Significant funding has also been allocated to upgrade our court information and technology support systems, while $300,000 a year has been set aside for the establishment of a computer-based register of territory legislation.

One of the most significant innovations in this budget is the delivery of the community health information system. Nearly $13.5 million in recurrent expenditure over four years and $3.5 million in capital expenditure has been allocated to this program. It will provide an agency wide information system for ACT Community Care to allow for case management of individuals and the better coordination of their care across agencies—a major innovation.

Addressing poverty

Poverty in Canberra is one of our hidden problems. While the statistics continue to show that incomes in the ACT are above average, we need to understand that there is still a significant pool of poverty in our city. That is why we are keen to work with the ACT Council of Social Service to find new ways to address poverty. This budget forms part of our response to the report of the joint ACT government/ACTCOSS poverty research project.

As we know, transport can be a major barrier for those in need. This budget allocates some $500,000 a year to provide public transport for low income earners. Some $100,000 a year has been allocated to provide 50 scholarships to enable financially disadvantaged and indigenous students to undertake study at the CIT. A further $0.5 million a year has been set aside for a program to help link people living in major public housing complexes to service providers, particularly in the areas of employment, family and living skills, education, health and welfare.

We will also establish a home-based outreach program for young people with particular problems. This initiative will support young people with special needs—for example, those with a substance abuse or behavioural problem or a disability—to improve their independence and wellbeing in the community.

Access to dental health care has been a problem for many in our city. We are allocating an additional $1 million to reduce waiting times for vulnerable members of the community and allow an additional 950 clients to be treated in 2001-02.

Some $0.5 million has been set aside in the budget year and more than $800,000 in the two subsequent years to redress the digital divide—the barrier between the information rich and the information poor. Our program will provide a package of measures to address priority needs and will be shaped by recently released findings in the digital divide task force, chaired by Mrs Burke.

Early intervention

We could reduce the many social, behavioural and health problems in our community that I have just spoken about if we had, as a whole, a stronger focus on early intervention. This budget seeks to put a greater emphasis on early intervention than has previously been the case. While improvements may not always be immediate, the community will gain real and lasting benefits from those initiatives in years to come. We are investing, in other words, in our future. The most significant early intervention initiative is our commitment to reduce early childhood class sizes for primary school students.

This initiative is expensive, costing about $25 million over four years, but I believe it is worth every cent. It will reduce kindergarten, year 1 and year 2 class sizes to a maximum of 21 students. The reduction will occur progressively between 2002 and 2004. It will improve not only educational outcomes but also social outcomes for students.

The funding of more than $1.2 million over four years will also be provided to non-government schools to support better educational outcomes for lower primary students. Further funding will be provided for the implementation of a common literacy and numeracy assessment in non-government schools.

Importantly, this budget also provides for a range of early intervention strategies for indigenous people. These include a mentoring program to support 15 indigenous people in their existing employment. Financial support will also be provided to the recently incorporated Indigenous Business Chamber, with the aim of enhancing employment opportunities.

The government will also enhance the indigenous youth centre's services at a cost of $100,000 a year. This initiative will allow the Gugan Gulwan Youth Aboriginal Corporation to better address the needs of indigenous young people in the community and indigenous students who are at risk of performing poorly in the ACT education system.

Funding of nearly $200,000 a year has been provided for additional indigenous mental health workers and $250,000 a year for enhanced indigenous health services, including outreach and case management workers.

While addressing the issue of early intervention, this budget has also given a focus to families. To this end, we have allocated more than $350,000 a year to strengthen measures for the protection of children, with early intervention, to prevent family breakdown, child abuse and neglect. The government will provide $75,000 a year to support 60 of the most at-risk families in the ACT through the provision of counselling and support services. This Youth Connection Family Support program will provide a specialised family counselling service to help improve resilience in these families.

Almost $1 million will be provided over four years for an early intervention program for families with adolescent children who are experiencing family conflict or dealing with issues such as substance abuse. The Supporting Families with Adolescents program will focus on young people aged 16 years and under and will have the resources to intervene within 48 hours. Some $200,000 a year will also be provided for parenting services in Gungahlin.

Funding of $82,000 a year will enable us to set up in Canberra the "Stepping Stones" New South Wales family drug support program, assisting the families and friends of those affected by alcohol and other drug use. More than $0.5 million a year has been provided for a coordinated approach to managing family violence in the ACT, which includes a strongly interventionist police response, the creation of a specialised family violence prosecutor and the establishment of a perpetrator education program.

The government is determined to assist families in the growing areas of Canberra. To this end, some $4 million in capital costs have been allocated for a child-care centre to be built in Gungahlin. It will also allow a further facility to be built in Canberra after an assessment of need is conducted.

Early intervention is also important for students. Funding of $357,000 over four years will be provided to allow government schools to better tackle the growing number of student management issues. An early intervention unit will be established, as will a program of professional development for teaching and administrative staff. More than $200,000 a year will also be allocated to establish a Support for Students at Risk program to help those students at risk of dropping out of school, and $450,000 will be provided over two years for a sport and recreation program for young people at risk. This will focus on young people aged between 12 and 25 years who are at risk of homelessness, substance abuse, being victims of crime or becoming involved in the juvenile justice system.

Early intervention is equally important in public health. We have allocated almost $1 million over four years to support national disease control. The program will provide proactive strategies to enhance food safety as well as treatment-based support programs and air-quality control measures.

Nearly $0.5 million has been allocated over four years to provide for a newborn hearing screening program for the screening of all babies in the ACT before the age of three months and to ensure the availability of intervention by six months.

The government is very proud to be allocating almost $2.7 million over four years to the territory's Health Promotion Strategy. Embracing the concepts of both social capital and disease prevention, the strategy will expand our healthy city activities, ensure our health protection service has a health promotion focus, introduce a health promotion web site and provide a health promotion recognition scheme.

At least one in five ACT children between the ages of 14 and 17 currently smoke, with the proportion in some age groups being closer to one in four or even one in three. We will provide $200,000 a year for a youth smoking and health program in an attempt to reduce the carnage caused by smoking. There will also be a $100,000 upgrade to the cervical cytology register and $215,000 will be provided for the replacement of an ageing ultrasound unit for the breastscreening clinic.

Early intervention also applies to our correction system. We will allocate $1.48 million a year for intervention programs to help prevent prisoners from reoffending after their release. Reducing recidivism is no easy task—but that should encourage us to do more, not less.

Some $0.5 million a year will also be allocated for mediation services to resolve neighbourhood disputes. It will build on a trial project undertaken in Tuggeranong in 2000 by the Conflict Resolution Service.

Other initiatives

I turn now to budget initiatives that fall outside the themes of innovation, early intervention and addressing poverty.

Many Canberra families will benefit from the government's decision to provide a free school bus service. At $18.7 million over four years in recurrent costs and $8 million in capital costs, it will enable ACTION and rural school bus operators to introduce the school student transport scheme from 1 September this year. The capital injection will fund the acquisition of the new buses required to meet the anticipated increase in demand. A further $700,000 has been allocated for an enhanced transport scheme for students with disabilities.

Multiculturalism is important to this community. That is why we are doubling our contribution to the multicultural grants program with an extra $0.5 million a year. This will enable more applications from Canberra's multicultural communities to be funded.

Supporters of Australian Rules football will be pleased to know that we have committed $250,000 a year to secure four Australian Football League matches at the Manuka Oval each year. Funding will also contribute towards a junior development program for AFL within the ACT. The program will enhance Canberra's chances of securing a team in the national competition in years to come.

There will also be support for the GMC 400 car race, staging the 9th Australian Masters Games in Canberra in 2003 and the Rally of Canberra. Hosting these events means jobs for Canberra.

More than $850,000 a year has been allocated to maintaining current standards of fire brigade response in all areas of Canberra. In particular, the initiative provides additional funding for a revised organisational structure, recruitment, a range of occupational health and safety issues and training and staff development.

We will also enhance our ambulance service. More than $1 million a year has been allocated for additional ambulance paramedics. The program aims to maintain the current standards of emergency ambulance service response in the ACT, in response to population growth and movement.

On environmental issues, we are providing $310,000 a year under the No Waste by 2010 project to meet the anticipated increased costs of providing garden waste recycling services at the Mugga Lane and west Belconnen land fills. We will also provide $351,000 over four years to be able to reduce greenhouse gas emissions by 700,000 tonnes a year by 2008.

In line with recommendations from Assembly committees, we are providing $500,000 a year to enable the Canberra Christian Life Centre to establish a community recreation area and skateboard park in the grounds of the former Charnwood High School site. Also in line with committee recommendations, funds have been allocated as a grant to the Canberra Police and Citizens Youth Club for assistance in the purchase of a 12-seater bus. The ACT-Eden Monaro Cancer Support Group has also been assisted.

We will be providing a $5 million boost for minor new works to enhance the learning and working environments for student and teachers in a range of older schools. High schools will particularly benefit from this program. Non-government schools will benefit from an additional funding of $300,000 a year to meet increasing demand on the non-government school interest subsidy scheme. Some $650,000 a year will also be provided to enhance the standard of maintenance of sports grounds, including Manuka Oval, to ensure that playing surfaces remain functional, safe and sustainable. The government will also provide an additional $1 million for heath and community services purchased by the government from non-government organisations.

We are taking two very significant measures to help ease the pressure on our public hospitals. We will abolish the hospital cost efficiency dividend, at a cost of $21 million over three years. This will take considerable financial pressure off our public hospitals, allowing them to focus better on patient care. The second initiative will see the development of a convalescent service for post-hospital care. Some $3.2 million will be provided over four years for the development of a range of options to meet the needs of older people and others immediately after discharge from hospital. The program will fill a gap in the provision of health and support services and build on existing partnerships within the service provider community.

As I mentioned earlier, we will not solve the crime problem until we solve the drug problem. We have allocated an additional $260,000 a year to help cope with demand for public methadone places and provide new pharmacotherapy treatments as they become available. This will include the establishment of a satellite clinic on the northside of Canberra. Some $0.5 million a year has been set aside to enhance existing drug and alcohol services to ensure a high-quality service for the treatment of clients. A similar amount has been set aside for a four-bed residential withdrawal service in association with the Ted Noffs Foundation youth residential rehabilitation service.

Policing services in Canberra will be enhanced, with an additional $1.5 million allocated for extra police. Of this more than $1 million a year will be provided for 10 additional police to control the Gungahlin area. The patrol will operate as part of North District and will be the priority response mechanism for Gungahlin. In addition, $500,000 a year will be provided to increase ACT policing's task force capacity. A street light safety program will also be carried out at a cost of $0.5 million in the budget year.

We will provide Canberrans with a customer hotline facility for services provided by the Department of Urban Services. This initiative will improve the handling of complaints and provide assistance with the department's broad range of services.

The city will also benefit from a $200,000 a year graffiti reduction program for private property. This builds on the success achieved in removing graffiti from public assets under the government's graffiti removal youth employment program over the past three years. There has been some transfer of graffiti into the private sector, and this program will target that.

Some $2.5 million has been provided over four years to continue the program of rehabilitation and upgraded maintenance to public infrastructure. This program upgrades the appearance and safety of our roads and public spaces with activities such as tree

pruning, grass cutting, weed spraying and removal, footpath repairs and painting of road signs and line markings.

There has been a great deal of controversy about the decision to impose a fee for entry into one of our most successful events: Floriade. The government has listened to the people of Canberra and has decided to remove the Floriade fee. The fee was not wanted, we have certainly heard that. The fee has been abolished permanently.

The government acknowledges that the non-government school sector in the ACT does not receive the same ratio of funding as is provided in New South Wales. We are, however, providing a modest increase in base funding, with $250,000 in 2001-02, rising to $267,000 in 2004-05. The government is also keen to provide the community with an independent resource to assist them to participate more fully in planning issues through the provision of advice on planning. We will establish a Community Planning Adviser based outside of the Department of Urban Services, at a cost of $250,000 a year, to carry out this function.

Whether we like it or not, Canberra is a car city and is likely to remain so for some time to come. In recognition of this fact, the government is continuing to invest in road building programs to ease congestion and improve safety. In addition to previously announced commitments, we will advance major road projects with a capital expenditure of $8.15 million in 2001-2002.

Superannuation

This budget continues the strategy for meeting the ACT's superannuation liability. Some $154 million will be injected into superannuation in 2000-01, and a further $35 million—that is, $35 million above the $50 million already committed in last year's forward estimates—will be injected in 2001-02. Some $200 million will be injected over the budget and forward estimates period, reducing calls on future budgets.

On current plans, it is estimated that there will be sufficient assets in the superannuation fund to cover emerging costs by the year 2019-20. By that time no further budget funding will be required. Our superannuation plan includes a review of the current investment strategy to optimise returns and the appointment of an asset consultant and custodian to oversee investment moneys held.

Conclusion

Mr Speaker, this government has already been accused of irresponsible spending. There is new spending in this budget, that is true. But it is, by any definition of the term, responsible spending. It is careful spending. We are spending no more than we have earned through our careful fiscal management. Unlike Labor, we are not spending on credit; we are not going into debt to funds the things that we have promised in today's budget. We are paying in cash. We have balanced the ACT's budget.

It is not just spending for spending's sake. We are investing in sustaining and building Canberra's future. By putting money into innovation, into reducing poverty and into early intervention we are investing in our people—our greatest asset. I commend this budget to the Assembly.

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

Papers

Mr Humphries presented the following papers:

Ownership agreements

2001-2002 Ownership agreements between the Treasurer and Chief Executives and Executives from the following agencies—

Chief Minister's Department, dated 24 April 2001.
Department of Treasury, dated 22 April 2001.
Department of Justice and Community Safety, dated 23 and 24 April 2001.
Department of Education and Community Services, dated 23 and 24 April 2001.
Department of Urban Services, dated 24 April 2001.
Department of Health, Housing and Community Care, dated 20 and 24 April 2001.
ACTION, dated 24 April 2001.
ACT Housing, dated 24 April 2001.
ACT Forests, dated 24 April 2001.
InTACT, dated 23 and 24 April 2001.
Land and Property, dated 24 April 2001.
WorkCover, dated 24 April 2001.

Statements of Intent

Financial Management Act, pursuant to section 58—2001-2002 Statements of intent from the following authorities—

ACT Community Care, dated 12 and 24 April 2001.
ACT Gambling and Racing Commission, dated 24 April 2001.
Australian Capital Territory Insurance Authority, dated 20 and 24 April 2001.
Agents Board of the Australian Capital Territory, dated 5 April 2001.
Australian International Hotel School, dated 24 April 2001.
Canberra Cemeteries, dated 24 April 2001.
Cultural Facilities Corporation, dated 9 and 24 April 2001.
Canberra Institute of Technology, dated 17 and 24 April 2001.
Canberra Tourism and Events Corporation, dated 20 and 24 April 2001.
Exhibition Park in Canberra, dated 24 an 27 April 2001.
Gungahlin Development Authority, dated 24 April 2001.
HealthPACT, dated 24 April 2001.
Independent Competition and Regulatory Commission.
Kingston Foreshore Development Authority, dated 12 and 24 April 2001.
Legal Aid Commission (ACT), dated 24 April 2001.
Public Trustee for the Australian Capital Territory, dated 24 April 2001.
Stadiums Authority, dated 20 and 24 April 2001.
The Canberra Hospital dated 17, 18 and 24 April 2001.

Purchase agreement

2001-2002 purchase agreement between the Chief Minister and the Chief Executive of the Chief Minister's Department.

2001-2002 purchase agreement between the Treasurer and the Chief Executive of the Department of Treasury.

Paper

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

> Financial Management Act, pursuant to section 26—Consolidated Financial Management Report for the month and financial year to date ending 28 February 2001.

The report was circulated to members when the Assembly was not sitting.

Financial Management Act—transfer of funds
Paper and statement by minister

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

> Financial Management Act, pursuant to section 14, an instrument directing a transfer of funds between appropriations and a statement of reasons.

I ask for leave to make a brief statement.

Leave granted.

MR HUMPHRIES: I thank members. As required under the Financial Management Act 1996, I table an instrument issued under section 14 of the act and a statement of reasons for the transfer of funds between appropriations by direction of the executive. Transfers under the Financial Management Act 1996 allow for changes to appropriations throughout the year within the appropriation limit passed by the Assembly. This instrument transfers $1.020 million, appropriated to the Department of Urban Services as capital injection, to government payment for outputs and it allocates the appropriation within the municipal services output class.

This appropriation was originally provided to DUS for use in electronic service delivery projects. There has been a delay associated with these projects. The appropriation is now transferred to allow for the costs associated with additional recurrent asset maintenance works to be undertaken by the department. I commend these papers to the Assembly.

Papers

Mr Smyth presented the following papers:

> **Purchase agreements**
>
> 2001-2002 purchase agreement between the Minister for Urban Services and the Chief Executive of the Department of Urban Services, dated 24 and 26 April 2001.
>
> 2001-2002 purchase agreement between the Minister for Urban Services and the Commissioner for Occupational Health and Safety, dated 24 and 26 April 2001.
>
> 2001-2002 purchase agreement between the Minister for Business, Tourism and the Arts and the Chief Executive of the Chief Minister's Department, dated 26 and 27 April 2001.

Miscellaneous paper

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

> **Miscellaneous paper**
>
> *Residential, Commercial and Community Land Releases in the ACT—2001-2002 to 2005-2006.*

I ask for leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, for the information of members I am pleased to table details of the government's land release program for the year 2001-02 and the indicative program for the financial years 2002-03 through to 2005-06. The program covers residential, commercial and community land releases. For next financial year, blocks for approximately 1,800 residential dwellings and 15 commercial sites are being prepared for release. Over the next 12 months sites suitable for retirement complexes and adaptable housing will be identified and brought forward for release.

The program for next year gives significant emphasis to expanding the Gungahlin town centre. Four hundred additional residential dwellings will be released, as well as a second retail site.

Mr Speaker, a key milestone will also be achieved at Kingston foreshore where the first blocks on the site, which will provide for 175 residential dwellings, will be released as stage 1a. A further release of another 175 residential dwellings, known as stage 1b, will follow later in the year. This is the start of a 10-year program of land releases which, when completed, will see up to 1,900 new dwellings on the foreshore.

Mr Speaker, as a general principle, land will be released through open competitive processes. Open and restricted auctions will be used, although tenders and direct sales may be considered for significant developments to encourage investment in the territory or to achieve specific business or community outcomes. Market conditions and market demands for additional land will determine the timing and number of releases.

Releases will be made in close consultation with the residential and commercial advisory groups, which include representatives from peak bodies, industry groups and government. The work of these groups is essential in having the best possible market information across Canberra and Queanbeyan.

The document tabled today will be circulated to all community councils and to LAPACs. It will also be available to the wider community through the government web site.

Purchase agreements
Papers

Mr Stefaniak presented the following papers:

2001-2002 purchase agreement between the Minister for Education and the Chief Executive of the Department of Education and Community Services, dated 23 and 24 April 2001.
2001-2002 purchase agreement between the Attorney-General, Minister for Health, Housing and Community Services, Minister for Police and Emergency Services and the Chief Executive of the Department of Justice and Community Safety and the Director of Public Prosecutions.

Mr Moore presented the following paper:

2001-2002 purchase agreement between the Minister for Health, Housing and Community Services and the Chief Executive of the Department of Education and Community Services, dated 23 and 24 April 2001.

Papers

Mr Moore presented the following papers:

Financial Management Act, pursuant to section 25A—Quarterly departmental performance reports for the period January to March 2001 for the:

Department of Business, Tourism and the Arts.
Department of Justice and Community Safety.
Department of the Treasury.
Department of Health, Housing and Community Care.
Chief Executive of the Department of Education and Community Services.
Chief Minister's Department.
Department of Urban Services—Schedule 2.

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

Board of Senior Secondary Studies Act—Appointments to the Board of Senior Secondary Studies—

Member—Instrument No 61 of 2001 (No 15, dated 12 April 2001).
Alternate Members—Instrument Nos 62 to 64 of 2001 (inclusive) (No 15, dated 12 April 2001).

Dentists Act—Appointment of member of the Dental Board of the ACT—Instrument No 52 of 2001 (No 14, dated 5 April 2001).

Electoral Amendment Act 2000 No 2—Notice of commencement (11 April 2001) (No 14, dated 5 April 2001).

Environment Protection Act—Environment Protection Regulations Amendment—Subordinate Law 2001 No 9 (No 14, dated 5 April 2001).

Freedom of Information Act—Variation of Declaration and Determination of Fees and Charges set out in Determination No 132 of 1995—Instrument No 37 of 2001 (No 12, dated 22 March 2001).

Independent Pricing and Regulatory Commission Act—Reference for an investigation under section 15 and specified requirements in relation to investigation under section 16—Instrument No 65 of 2001 (No 16, dated 19 April 2001).

Insurance Authority Act 2000—Notice of commencement (1 April 2001) of remaining provisions (No 13, dated 29 March 2001).

Insurance Authority Act—Appointments of Directors of the Board of the Insurance Authority—Instruments Nos 54 to 58 (inclusive) of 2001 (No 14, dated 5 April 2001).

Kingston Foreshore Development Authority Act—Appointment of member of the Kingston Foreshore Development Authority Board—Instrument No 53 of 2001) (No 14, dated 5 April 2001).

Land (Planning and Environment) Act—

Appointment of member of the ACT Heritage Council—Instrument No 44 of 2001 (No 13, dated 29 March 2001).
Appointment of member of the ACT Heritage Council—Instrument No 45 of 2001 (No 13, dated 29 March 2001).
Determination of conditions—Instrument No 87 of 2001 (S21, dated 30 April 2001).
Determination of criteria—Instrument No 66 of 2001 (No 16, dated 19 April 2001).
Land (Planning and Environment) Regulations Amendment—Subordinate Law 2001 No 8 (No 12, dated 22 March 2001).

Land (Planning and Environment) Regulations Amendment—Notice of commencement (5 April 2001) (No 14, dated 5 April 2001).

Legislative Assembly (Members' Staff) Act—

Terms and conditions of employment of staff of Office-Holders pursuant to subsection 6 (2)—Instrument No 42 of 2001 (No 13, dated 29 March 2001).
Terms and conditions of staff of Members pursuant to subsection 11 (2)—Instrument No 43 of 2001 (No 13, dated 29 March 2001).
Terms and conditions of employment of staff of Office-Holders pursuant to subsection 6 (2)—Instrument No 50 of 2001 (S15, dated 27 March 2001).
Terms and conditions of staff of Members pursuant to subsection 11 (2)—Instrument No 51 of 2001 (S15, dated 27 March 2001).

Nature Conservation Act—

Determination of criteria—Instrument No 59 of 2001 (No 15, dated 12 April 2001).
Determination of licencing criteria—Instrument No 47 of 2001 (No 13, dated 29 March 2001).
Revocation of licensing criteria determination—Instrument No 46 of 2001 (No 13, dated 29 March 2001).

Public Health Act—Public Health Risk (Centre for Opioid Detoxification using Opioid Antagonists) Declaration 2001—Instrument No 40 of 2201 (No 12, dated 22 March 2001).

Public Place Names Act—Determinations of—

Public place nomenclature—Campbell—Instrument No 38 of 2001 (No 12, dated 22 March 2001).

Street nomenclature—

Bruce—Instrument No 49 of 2001 (No 13, dated 29 March 2001).
Dunlop—Instrument No 39 of 2001 (No 12, dated 22 March 2001).

Public Sector Management Act—Management Standards—

No 1 of 2001 (No 13, dated 29 March 2001).
No 2 of 2001 (No 16, dated 19 April 2001).

Supreme Court Act—Supreme Court Rules amendment—Subordinate Law 2001 No 10 (No 16, dated 19 April 2001).

Tree Protection (Interim Scheme) Act—Determination of criteria for approval to undertake a tree damaging activity—Instrument No 60 of 2001 (S17, dated 5 April 2001).

Adjournment

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

That the Assembly do now adjourn.

Assembly adjourned at 3.44 pm