DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

21 August 2001

Tuesday, 21 August 2001

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Tuesday, 21 August 2001

The Assembly met at 10.30 am.

(Quorum formed.)

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

Petition
Cigarettes

The following petition was lodged for presentation, by **Mrs Burke,** *from 57 residents:*

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
>
> - minors including children are obtaining cigarettes from vending machines; and
> - following deregulation of business trading hours, adult smokers cannot claim they are reliant on access to tobacco products through vending machines.
>
> Your petitioners therefore request the Assembly to strengthen its commitment to stopping young people from becoming addicted to nicotine by immediately passing legislation prohibiting the sale of cigarettes and other tobacco products through vending machines.

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

Leave of absence to members

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

> That leave of absence be granted to Mr Quinlan and Mr Smyth for 21, 22 and 23 August 2001.

Health and Community Care—Standing Committee
Report No 11

MR WOOD (10.33): Mr Speaker, I present the following report:

> Health and Community Care—Standing Committee—Report No 11—Elder Abuse in the ACT, dated 20 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, this is an important report. It is also the 11th report of the committee that was established over three years ago. We have had an interesting three years. I have enjoyed working with my various colleagues Mr Rugendyke and Mrs Burke and Mr Hird before that. With this report we finish the work of that committee, although there may be some things still arising.

At this time I want, in particular, to thank Mr David Skinner, the secretary of the committee over that period, for his attention to the committee's needs. Most particularly, I want to congratulate him on the quality of the work that he has undertaken over that time. I know that the committee members join with me in passing on our appreciation to Mr Skinner for that quality of work. He certainly has given value for the work that he has done. All the reports have been outstanding in the way they have been presented, and in the organisation of the committee his work is also of the highest quality. Many thanks to David.

There is a measure of abuse of the elderly in this community. It is not possible to state with any degree of accuracy just how widespread that abuse might be, but it is, on all the information we receive, sufficient for us to be concerned about it and to take some measures to try to reduce it.

Elder abuse does not include criminal acts, such as bag snatching, housebreaking and the like. They are clearly of the criminal nature. But it does include such matters as physical abuse, very often emotional abuse, occasionally a measure of sexual abuse, and most particularly, and of concern to the committee, financial abuse. I will have more to say about that. It also incorporates neglect; failure to take sufficient care; failure to be attentive to all the needs of an elderly person. This can happen whether in the person's own home or the home where they are residing in the community, perhaps with family, or it can occur in an institution.

Elder abuse occurs where there is a condition of dependency by the older person on others; where that person is not in a position to handle his or her affairs in their entirety and is completely or partially dependent on the care of others, again whether in a family or in an institution. Sometimes that abuse is by the family, sometimes in other circumstances.

We paid a deal of attention to financial abuse. There can be exploitation by family members, sadly, and we were given some examples of that. We had a number of case studies, which you might see on pages 32 and 33 of the report, and it is disconcerting to find that family members might anticipate the use of money that they think is theirs well before they have any entitlement to it. It certainly can be a problem.

That arises very often following legal avenues when a power of attorney has been handed over to family members. That power of attorney is still insufficient to stop a measure of abuse. I have no doubt that in the community as a whole the power of attorney is widely used and properly used by most members of our community, but we are saddened to see those circumstances where it may be abused, where those who have been given the power of attorney take actions and use the money that they can gain in ways that they should not.

We have made a number of recommendations, and for me this is one of the more important areas of the report. We have passed a number of recommendations that you will see on page 35 to deal with the power of attorney. The rules of power of attorney need to be tightened. There need to be some further protections for the person handing over the power. The legal fraternity must understand the problems and give sound advice. I will not read all those recommendations, but I certainly draw them to your attention and ask that the next government pay full attention to them.

While there is a measure of elder abuse that we cannot quite identify, it is important that we take steps to let people know about it, especially those who work in institutions or who work in community bodies around the place, such as community nurses and respite care people who go into homes. It is important to undertake a stronger campaign to inform them about elder abuse so that they might be in the position where they see it to do some reporting about it.

While we want more information in the community, we have indicated that we are not supporting mandatory reporting. We followed the lead from other states and we will not go down the path at this stage of requiring mandatory reporting, but we do need education and information campaigns to see that people in the community are well aware of the problem and that they can act to protect the rights of the elders in our community.

One of the matters we considered was an approach from a retirement village about the charges that were being imposed upon them. We were fairly cautious about this because if any legal action arises, and there was some suggestion that it might, we did not think it was proper for us to be making findings of fact.

From my point of view at least, if not of the committee, both parties at that village entered into arrangements with great optimism, perhaps unfounded optimism. The management certainly believed it could deliver a fine product—it is a wonderful place physically—and that they could keep costs down to a minimum, and perhaps they were too optimistic. The residents who moved in, who did so because the fees were very low compared to any other village in the ACT, also did so with that level of optimism. It seems that as things moved on that optimism could not be maintained and inevitably the financing of the village dictated that there had to be some increases.

Because there has been very limited communication, because there has not been effective communication between the management and the residents of the village, matters have degenerated. The situation does need to be resolved. I would look for some sort of committee, a management and resident committee at the village, to try to work through these problems, which I think came from an undue level of optimism on both sides at the outset.

Mr Speaker, I emphasise again that this last report of the committee is an important report, and I look forward to being able to be some part of the action that may flow from it in the future.

MR RUGENDYKE (10.42): I rise to mention that this report is an important one of the health committee. The problem was identified and brought to us through the agencies that deal with people, such as the Domestic Violence Crisis Service, the Community Advocate, the Council on the Ageing and others, all of whom put in very substantial and authoritative submissions.

Mr Speaker, it was quite difficult to get individuals who are the subject of abuse to come forward. It is very difficult to identify people other than from anecdotal and second-hand evidence, so from that point of view the committee was obliged to rely mainly on the submissions of the various agencies.

Issues such as carer burn-out and power of attorney were identified. There was discussion on issues such as mandatory reporting of abuse of the elderly. The Council on the Ageing was one body which suggested that that might be appropriate, but others disagreed. While I think it was conceded that mandatory reporting in relation to children is appropriate, for various reasons mandatory reporting of abuse of the elderly was seen generally as not worthy of support. In fact other jurisdictions have not gone along with the concept of mandatory reporting for the elderly.

Mr Speaker, this is a very good report. It includes several case studies of abuse. I urge members to look at the sort of abuse that, anecdotally, the elderly do suffer and are reporting. I thank my colleagues on the committee for their work in this regard. As Mr Wood said, it has been a good committee to work with and be part of over the last three years. I look forward to the recommendations in this report and in the others of the health committee being seriously considered.

MRS BURKE (10.45): Many of the points have been raised by the chair and my colleague, Mr Rugendyke, but I would like to add a couple of things. The report is an excellent report and it deals with a very difficult and sometimes unspoken area of discussion within our community. It was very clear in our community consultations with several people that it is often a difficult area for all family members to talk about. The person who may be perceived to be the abuser is often the one being abused also. That clearly came out, and obviously makes it a very sensitive issue. It is a difficult, sensitive and complex issue. However, I urge the government of the day, as my colleagues have done, to carefully consider the recommendations made by this committee.

I should mention at this stage some of the steps put in place by this government to date. We have a boarding house initiative. You may recall that $2 million was allocated in the 2001-2002 budget. The boarding house program will provide supportive accommodation that offers an exit point from the supported accommodation assistance program services into more independent living, which is what we want for elders and the families involved.

In contrast to the traditional boarding house, this boarding house program will consist of relatively self-contained, one bedroom units with some common spaces which provide opportunity for social interaction, peer support and enhanced security. Success of the program is contingent on linked support packages, which is also something that came out in the report. The linkage is made by the parties involved.

The first target group is women over 50 years who have experienced family breakdown, including that area of elder abuse, who are unable to live independently for financial reasons. Using an eight-unit boarding house will be a good solution, or one option. These women, who may be ineligible for public or community housing because of a financial interest in a property, for example, are emerging as a group for whom there are no safe and affordable accommodation options. Support packages would include SAAP transitional support, Home and Community Care, language assistance and financial counselling. Other targeted groups at this stage include youth and people with mental illness, but we are basing this around the elder abuse.

The ACT government continues its participation in the national Healthy Ageing Task Force, through the Chief Minister's Department. The HATF has a focus on elder abuse. The Aged Care Assessment Team, or ACAT, is developing procedures responding to elder abuse. Much work has started on this matter.

The CC link program, another good initiative, provides discharge planning services and visits older people in wards not going to the aged care facility and people over 70 attending accident and emergency. Activities under this program are designed to ease and relieve pressure.

I turn our attention to the carers. The ACT government recognises the needs that carers may have. This also came through in our report as an area of strain for families. Bearing in mind that elderly people often only want to be looked after by their family members, that makes it even more difficult. The Department of Health, Housing and Community Care purchased 26,756 hours of community or in-home respite and 55,895 hours of centre-based respite that was available to carers of older people.

The government has also purchased services that support carers in their role, things that will help them in their endeavours to look after their loved ones. There are the skills for carers courses at the CIT, for instance, under the Carers Association. Services purchased from the Carers Association include the non-English speaking isolated carers project, and an information and support service. All of these are valuable things.

The ACT continues working with the community in identifying the needs of older people, including the Aged Care Health Services Advisory Council and the Council on the Ageing, ACT. COTA has been engaged to undertake a needs analysis of older people and their health needs. Their input into this report, Mr Speaker, has been highly valued.

A memorandum of understanding is being developed between the ACT Community and Health Services Complaints Commissioner and the Commonwealth Aged Care Complaints Resolution Service which will ensure that the ACT commissioner becomes aware of abuse of older persons reported to the Commonwealth Aged Care Complaints Resolution Service.

At this stage I would like to thank the other members of the committee, in particular the chair, Mr Bill Wood, and my colleague Mr Dave Rugendyke. Thank you for your help and assistance in this short and steep learning curve. Finally, I must extend a hearty thank you to David Skinner for his exceptional secretariat work for this committee.

Question resolved in the affirmative.

Referendum Bill 2001

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

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.51): The Labor Party opposes this bill. In his presentation speech the Attorney-General spoke the obvious in outlining the problems caused by drug use in the ACT. Our young people, and our indigenous young people, are particularly at risk. We all know that. We see the overdose statistics. There is hardly a Canberra family that has not been touched in some way, either directly or through indirect knowledge of friends or neighbours or relations, by the scourge of drugs.

We all know that the whole community suffers from drug related deaths and overdoses, not only in terms of the trauma to families but also in terms of our overloaded ambulance, hospital and health care services. The whole community suffers too from the costs of the illicit drugs trade, from the increased crime and insecurity this engenders, and from the need for more and more jails as a result of US-style policies of zero tolerance. Everyone in the Canberra community agrees with the Attorney-General's assessment that we clearly have a problem. We do clearly have a problem, a problem that this bill will do absolutely nothing to solve.

At best this bill is premature. The time to ask the community for judgments about the advisability of establishing programs based on trials is when those trials have been conducted and an assessment of the results, the benefits and problems, is possible. At worst, the holding of a referendum could create a precedent of effectively blocking any future social initiative or trial by an ACT government. There could always then be a demand by opponents to any new policy that the community be asked to vote on this bill through referenda before any decisions are made.

The notion that this Assembly support a referendum designed to settle the government's approach to a major health policy issue is absolutely wrong-headed. It is an abrogation of responsibility and leadership. It brings the Assembly into disrepute. Such referenda will be extremely costly and will be inimical to good planning, to committee process, to reliance on expert advice, and to the simple notion that governments are elected to govern.

Government by referendum poses problems in a democracy. No real provision is made for minority groups' interests. A referenda process on single issues can be captured by well financed self-interest groups at the expense of community welfare and cohesion.

This particular referendum will cost an estimated $210,000, money that could well be spent in a health funding or rehabilitation program. An amount of $20,000 will be spent on the development of the four arguments—$5,000 each for the pros and cons of the two questions—and each must be presented in no more than 2,000 words, which is less than the length of this speech.

The timing arranged for in this bill seems extraordinarily optimistic. If the bill passes this week there are just eight more weeks to the election. In this time Assembly members must notify the Speaker within two days of the commencement of the act whether they wish to be recorded as eligible to contribute to the yes or no vote on each question. In other words, they must decide their vote in advance of the arguments if they wish to have a voice. Then the four arguments must be developed and approved by at least a two-thirds majority of the MLAs who registered for each view. After they have agreed to the wording of their case they must get the agreed wording to the Electoral Commissioner within 14 days from the commencement of the act.

Then the Electoral Commissioner must arrange to print each authorised statement together in a pamphlet. Each elector or each household in the ACT is to receive their pamphlet at least 14 days before polling day. There is not much room for delay, so, in every office, constituency, Assembly and policy work will have to be put on hold to rush this through. Inevitably, both sides will wish they had more time to prepare their cases.

As we know, if people are unsure of the issues, or of the total picture, or of possible ramifications, they will vote against a referendum proposal. We know that is the history of referendums in Australia. In our history by far the majority of referenda questions fail. It is unrealistic to expect that every elector, or even half of the electors, will have read and considered the 8,000 words provided on the issues to them by the Electoral Commissioner.

The opposition has never said, and does not say, as suggested by the Attorney-General, that the people of Canberra are not sufficiently educated or informed to make a judgment on the issues, but we are indeed worried, as he suggests, that the debate leading up to the referendum will be characterised by simplistic statements. The very fact that the Attorney makes this statement is proof enough for our concern.

Reflecting on the wisdom and judgment of the Canberra community, it is my view that if the referendum proceeds both questions will be answered by a majority of Canberrans in the majority. I say that in order to put in some context the position which the ALP has taken in relation to this referendum. The referendum questions, in fact, reflect very broadly the ALP's position on both an injecting room and a heroin trial. We support a yes case and will support a yes case, but we oppose this referendum.

To return to the nature of the debate we can anticipate, we are already hearing plenty of simplistic statements. It will be surprising indeed if, in the referendum debate, a vote in favour of either or both the questions is not represented and not articulated as politicians just being soft on drugs.

To choose these two issues alone as the subject of the referendum presents a misleading picture of what is and must be a total strategy on drugs. The questions make no mention of the counselling, the drug education, the referrals and alternative treatments which will form an integral part of any supervised injecting room trial or of the provision of heroin under medical supervision.

As Labor stressed in the original debate on the proposal to establish a supervised injecting place trial, such an initiative must form one part only of a broader drugs strategy. This strategy must encompass treatment, harm reduction and education.

The objective of the Supervised Injecting Place Trial Bill in 1999 was to allow for a scientific study over a fixed two-year period of the effects of providing such a facility. Six-monthly evaluations were to be produced on the incidence of drug-related deaths, on the success or otherwise of referrals for treatment, detoxification, counselling, rehabilitation and help with problems, and on the attitudes and perceptions of the wider Canberra community to the facility in operation. We are now asking the wider Canberra community to form these attitudes and perceptions in advance of the trial. We are saying, "If you are prejudiced against this trial before you know the results, then we won't do it."

For the 1999 debate on the Supervised Injecting Place Trial Bill, a wide range of views from community and health experts was canvassed. For example, the Criminal Law Committee of the ACT Law Society considered that the likely outcome of the trial could be, and I quote the Law Society, a reduction in the number of intravenous drug overdose deaths; a reduction in the number and cost of ambulance calls to intravenous drug overdoses; a decrease in the transmission of blood-borne viruses; an increase in the contact between intravenous drug users and counselling, treatment and rehabilitation services; a reduction in the dangers arising from discarded used syringes in public places; and a reduction in the nuisance of intravenous drug users injecting and overdosing in public.

These are opinions. These were the views of the Law Society. These were the views that the Law Society said that an injecting room trial could test, and they still remain to be tested by the trial. But, if these were to be the results of the trial, how tragic it would be to decide never to conduct it on the basis of a simplistic referendum question and a 2,000-word argument which can never hope to convey all the considerations and complexities? How tragic that would be.

To put that in context, a trial is currently under way in New South Wales. It is a trial that will be scientifically tested. It is a trial which will test each of these positions that has been put by proponents, by those that are prepared to say, "Let's look at the evidence. Let's do a trial. Let's gather the evidence. Let's be guided by what the evidence reveals to us." New South Wales is doing that. They are conducting a trial and the results will be available before the end of next year. Here we are in the ACT pushing ahead with a referendum which could preclude us forever from taking advantage of the information, the advice, and the scientific evidence which a trial, which is currently under way in New South Wales, will provide to us.

Why would you have a referendum now in the ACT in advance of the provision of the results of a scientific trial on this very matter that is being undertaken 200 kilometres away? Why, for goodness sake, would you do something as absurd as that? Why would you possibly wish to deny yourself access to the information that will be provided through the reports of a scientifically conducted trial in Sydney?

Similarly, how can a person judge, for example, the effect on such things as drug-related crime in the ACT or on the drug trade of a program of controlled provision of heroin, under medical supervision, to registered addicts and those dependent on heroin? We cannot judge until we have a trial.

Does anyone consider that Australia's world-leading needle exchange program would have been voted in by a referendum which asked, "Do you approve the running in the ACT of a trial needle exchange program for drug addicts?" Just imagine a referendum 15 to 20 years ago, or within the appropriate time frame, that asked, "Do you approve the running in the ACT of a trial needle exchange program for drug addicts?" I guarantee that in the climate of the day the answer would have been no, and governments would have committed to not conducting a needle exchange program in the ACT, with the consequences of that.

Yet the needle exchange program has proved an outstanding success in reducing the number of AIDS cases in Australia, in protecting people from infections such as HIV and hepatitis C, and in protecting, in turn, the wider community. The health care costs saved by the prevention of infection through the needle exchange program would be in excess of 20 times the cost of the program. This program has been studied and regarded as a best practice model by health professionals the world over.

Also, the problem arises that the very people who have developed the arguments on these policies, which will be implemented or not according to the vote on the referendum questions, may very well not be in the next Assembly. The people who will then be elected members for the ACT, charged with promoting the policies they put forward successfully in their campaigns, may have presented the arguments very differently. Who is to say that new members of this place will feel bound by the results of this referendum whatever way it goes?

I do have a comment on the approach adopted for the referendum by the Liberal Party in this regard; the notion that Liberal Party candidates have a conscience vote on the issue up until 20 October and, subject to the results, they do not have a conscience vote on the issue on 21 October. This is indeed a new spin on the granting of a conscience position for members of a political party: "Look, go out there and argue the case on the referendum, exercise your conscience, but on 21 October your conscience is no longer relevant. You are bound to implement the decision which the leader decides on that day."

I think this is an absurd motion. For anybody, for any commentator, to accept that members of the Liberal Party are going to exercise their conscience until 20 October, and from 21 October when matters come before this place they no longer are going to exercise their conscience—in fact, that they will be prohibited from exercising their conscience after that date—is an absurdity, and the debate in relation to the injecting room bill of the year before last tells us that.

It tells us that in the context of the way the Liberal Party voted on that issue. Of the six Liberals who voted on the injecting room trial bill, two voted ostensibly with the party position, two voted against the party position and two voted against the cabinet position. The party in fact had three sets of positions. The Chief Minister and Mr Smyth voted in accordance with the cabinet position but against the party. They crossed the floor. No, they didn't cross the floor, in fact. You need to analyse this. You need to understand this to put the lie to the nonsense that is being put about; that the Liberals will have no position up to 20 October, but then magically a position will appear on 21 October. You need just to look at the injecting room debate to put this in context. It is an important position in relation to the advocacy of this referendum by the Liberals.

In relation to the injecting room trial bill, and I will go through it in detail, the then Chief Minister and Mr Smyth supported the cabinet position but voted against the party position. Two other members of cabinet, the now Chief Minister and the now Attorney-General, voted against the cabinet position. They ratted on a cabinet position in support of the party position. Two other members of the party, the Speaker and Mr Hird, voted against the cabinet position and in support, I think, of the party room position and in support of the party position. That is what happened last time.

Now those opposite go out there pretending that that will not happen next time. They are out there pretending that they will not fracture all over the place. They are out there pretending that on this issue, if it comes before the place after the next election, they will vote as one in accordance with the referendum results. That is a position that simply should not be believed. It is not believable.

In acknowledging that it is not believable, you come to the crux of this matter. Why are we having this referendum? What is the real motive behind this flawed initiative? Of course, when you analyse the government's position on it, the real motives become clear.

This is a complex and controversial matter of public policy. It is a matter of public policy that successive governments and governments everywhere find extremely difficult, to the point of being intractable. It is hard. It does require courage, it does require leadership, and it does require a breadth of vision; but the Liberal Party do not have it. They do not have a policy on these issues, as we saw in the debate last time around when the government introduced its own bill.

The party fractured all over the place. It went everywhere. It is bereft of a policy on the issues. It needs a distraction to distract attention from its fiascos and mismanagement of the last three years, and the electoral position it currently finds itself in, and it has scrabbled around looking for that distraction. It has looked for a stunt, and it thinks this is a stunt. That is how cynical this is. This is a shameful exercise. The Liberal Party says, "Let's have a referendum on a difficulty public health policy. Let's see if we can distract attention."

To some extent I think this is almost the final throw of the dice in relation to scapegoating sections of the Australian community. Over the last century or two Australian politicians have found it convenient from time to time to scapegoat certain identifiable sections or portions of the community. One of the most disgraceful aspects of political life is the scapegoating of minorities. We have done it in relation to Aboriginals, we have done it in relation to Asians, we have done it in relation to a succession of migrants, and we have done it in relation to people who have been unable to find work. At different times we have done it in relation to unmarried mothers. But it is now simply unacceptable to scapegoat people on the basis of race or on the basis of sexuality. So the Liberal Party is scrabbling around, saying, "Who can we target? Who is there left to scapegoat?" And who is there left to scapegoat? Drug addicts. Drug addicts are still a fair target by some politicians. That is why this bill is doubly shameful.

The government is reduced to referendums on difficult social policy issues in order to disguise the level of its electoral discomfort and its electoral problems. It is prepared to abrogate all leadership, all responsibility. To the extent that this is an exercise in scapegoating certain people within the community, it is also disgraceful. It is shameful

and disgraceful that you would do this; that you would use a difficult social policy issue to divert attention from your own problems, and that you are prepared to target a disadvantaged group within the community, a group of people suffering a serious health issue and problem, and that you will say to the community, "Vent your spleen on this lot."

Mr Speaker, governments are elected to govern. That means that parties that aspire to government have to take detailed and clearly articulated policies to the electorate to allow proper choices to be made by voters. This government cannot do that on the drugs issue because the split in its ranks means it cannot have a clearly articulated and progressive policy. It cannot show the leadership to confront possibly the most difficult social issue for our community, and in its desperation it seeks to muddy the waters with a populist and flawed proposal to seek the community view at a referendum. That is not a credible or creditable way to run a government.

MR SPEAKER: The member's time has expired.

MR STANHOPE: Sadly, we have become used to that in the years of waste and mismanagement that we have seen from this government.

MR KAINE (11.11): Mr Speaker, I think it is clear that drug abuse and addiction presents one of the major problems of our time. Even in the ACT, thousands of people, their families and friends, and the victims of drug-related crime, suffer directly or indirectly. All are victims of the scourge of drugs.

They suffer endlessly and, in their despair, look to government to relieve them of that suffering. They reasonably expect that government will initiate positive action to minimise the impact of the drug trade on their lives, to put programs in place to heal the afflicted by curing them of their addiction, to treat their problems, and to rehabilitate those addicted and allow them to regain their normal lives. These are reasonable expectations, and government has an obligation to act in connection with them.

I submit, Mr Speaker, that for too long now we have seen government equivocate in taking positive action on these matters. Some token programs have been set in place, like the methadone program, which now, after all this time, seems to be no solution at all. Great reliance has been placed on punitive police measures to control the drug trade. There has been some procrastination. Over the objections of many of us, the government had the go ahead on a shooting gallery not so long ago, but they went to water and failed to act on that approval for the basest of reasons—political expediency. That matter is still on the books, but no action has been taken in connection with it.

Some proposals for action have been arbitrarily rejected. For example, I proposed some time ago that we adopt a prescribed heroin program, with addicts being offered government-provided heroin, through prescription administered by general practitioners, under the public health program, that is, Medicare. That proposal was simply ignored, although I notice that the AMA President, Dr Kerryn Phelps, is right now advocating something similar. So I suppose that at some future time that program might well be picked up.

Mr Speaker, our government seems to have been totally paralysed on the issue. There has been a good deal of talk over the last six years about drug problems, but virtually no action. Very little public funding has been provided to address any particular aspect of the drugs problem, although it must be obvious that expenditure is urgently needed in a number of areas. We can spend millions on Bruce Stadium and the like, but we can't spend $10 million on helping with this particular problem.

But now, Mr Speaker, an election is approaching. Now we must be seen to be doing something, so we have been asked to debate the form of words to be used in putting the issues to a referendum. What questions should be asked, and how should the questions be worded? It is an interesting debate, Mr Speaker, but, when one thinks about it, it is a total red herring and an irrelevancy. The fundamental question really is should we be having a referendum at all? That has been skated over very lightly.

There is considerable community concern about this question. I have been inundated with emails, telephone calls and letters for days now. Most of them express concern at the fact that the government is proposing to conduct a referendum on the issue. People do not believe it is necessary at all. Should the government not instead be expounding its policies on how it will deal with the problem if re-elected to government? Should the electorate not decide the issue by considering the policies of the two parties contending for government and voting accordingly? Why a referendum? These are the questions that are being put to me.

Mr Speaker, the referendum proposal has all the hallmarks of an attempt to divert the attention of the electorate from the real election issues. How did this issue become a major issue warranting a referendum? Where is the tide of public demand for a referendum on the issue? The answer is that there is none. On the contrary, in fact, there is strong opinion suggesting that a referendum is neither needed nor wanted.

A matter of real concern is that the government, although sponsoring a referendum, has no real commitment to implementing the outcome. Indeed, how could it? Its candidates for election, including the members sitting opposite today, are free to advocate support for the referendum, or opposition to it, or to sit on the fence. After the election, and the referendum, if those candidates form a government, how will they then form a policy one way or the other? After running on different opinions during the campaign, are we to assume that they will then have a party room meeting and agree amicably on a policy solution with half of them or more resiling from the positions they advocated during the election? I suggest, Mr Speaker, that the response to that question has to be either "and pigs might fly", or alternatively they will abandon their principles in the interests of political expediency.

The fact that we are contemplating a referendum at all, in my view, flows from two propositions. They are, firstly, that the Liberal Party is a policy-free zone on the drugs issue, despite six years of government, and, secondly, that the Liberal Party is morally bankrupt on this question.

That the Liberals are policy free is a matter of fact. It is a matter of record. That they are morally deficient can be demonstrated. They want a referendum because they wish to use it as a diversion tactic for the election, not because they are committed to taking any action as a result of it. They want a referendum because they are afraid to accept the

responsibility of making the decisions themselves on these issues. They want a referendum without any commitment to accepting the outcome. And they want a referendum despite the fact that the Prime Minister, a Liberal Prime Minister, has said that there will be no heroin trial and no shooting gallery in Canberra. They will hope, therefore, to be able to shelter behind the Prime Minister's opposition if they get a yes vote to the referendum question. So they have got it both ways. If they get a no vote they will reckon that is great thing; if they get a yes vote they will hide behind the Prime Minister's position.

Finally, Mr Speaker, the Liberals want a referendum because it gets them off a hook. It gets them off the hook of having no policy on this very issue which they now claim is the major issue coming up in eight weeks time or less at the election.

Mr Speaker, I have referred to the government as being morally bankrupt, and I think their actions demonstrate that they are; but I think other members of this place need to look at themselves also. For example, Mr Osborne and Mr Rugendyke really need, before they vote on this issue, to confront the morality of supporting a referendum although refusing to accept the outcome. Where is the morality in that? I know Mr Osborne and Mr Rugendyke to be highly moral people, but I cannot reconcile their supporting the referendum on the one hand and saying on the other that if they do not like the outcome they will not support it. I think they need to look carefully to see whether they are not being rather contradictory there.

Of course, I think Mr Moore, being a reasonable person, will decide whether he will support the ploy of a referendum as an acceptable alternative to the government of which he is a part making effective policy decisions and taking effective action. I think there is a bit of a moral dilemma there for Mr Moore, and I am sure he will act accordingly.

Mr Speaker, the government, of course, would not wish to be influenced by any other referendum or plebiscite that might already have been taken on the issue. For example, a Newspoll survey conducted only a couple of weeks ago has found that 45 per cent of people were in favour of heroin trials and 47 per cent against. The population is fairly evenly divided on the issue.

If, after spending $200,000-plus to conduct a referendum, the ACT population arrives at the same outcome, split fairly evenly down the middle, I have to ask, "What would a Liberal government do?" The answer, Mr Speaker, presumably, is nothing. That would be exactly the desired outcome from a referendum for them.

Mr Speaker, there is much opposition to the conducting of a referendum. The Australian Federal Police oppose it, the Salvation Army opposes it, the Australian Medical Association opposes it. These are people who are pretty close to the front line when it comes to dealing with drugs issues. There is no doubt that many of our citizens oppose it. I can only say that based on the evidence that has been brought to my attention in recent days. So why persist? What is the driving force behind this government initiative? The government has not explained why it thinks it necessary or desirable to conduct a referendum. I think they do need to justify it, because I do not believe there are any grounds that could justify it.

Mr Speaker, I think the *Canberra Times* got it right in its editorial of 9 July. I will quote a couple of sections from it. First, the *Canberra Times* said:

> Referendums on complex single issues can be flawed when there is compulsory voting, because the large number of apathetic voters forced by law to attend the polling place are likely to just say "No" if they have not had the chance to research a question in detail. Indeed, that propensity is so high that any government wanting to put an issue permanently into the too-hard basket would submit it to a referendum.

Therein might lie the motivation for the government putting this matter to a referendum. But the other part of their editorial which I think is pertinent, Mr Speaker, reads:

> There seems to be an element of democratic paralysis here. The Government appears to be too scared to do anything lest it cost a few votes. The only antidote they can see for that appears to be the referendum. Surely, a better antidote would be to explain to voters why a certain course of action is being embarked upon, and if the Government is convinced that it is the best way to go, it should take the risk that the hearts and minds of voters will follow.

Those are very apposite words, Mr Speaker.

Mr Speaker, I conclude by repeating that victims of the drug scourge want action from the government. They do not want more equivocation, more procrastination, more avoidance of the issue. I believe that if this referendum goes ahead those people most affected by the drugs problem will find the government guilty of using their suffering as some kind of political game to justify this political ploy of conducting a referendum. Mr Stanhope put it in another way, saying, "Make them the scapegoat; that instead of addressing the issues the government is attempting to avoid them through a costly political scam." I assume a couple of hundred thousand dollars is costly.

Members, the question for us is this: do we join with the government in fiddling with the wording of questions rather than addressing the real issues; of conducting a referendum as a ploy to divert people's attention from the real issues of this election instead of developing positive policies to address those issues? I believe the answer is no. I believe that we must take a stand and ensure that the referendum does not take place, and that is in the public interest.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.24): Mr Speaker, let me start by addressing some points that were made by Mr Stanhope in this debate. Mr Stanhope argued the line that there was a vacuum of leadership on the part of the Liberal Party and that the absence of a clear policy from the Liberal Party was what was being covered up by this conduct of a referendum. I think the truer position is that this Assembly is facing a vacuum of leadership on this issue and needs to have a clear sense of the direction which the ACT community wants to pursue before it takes further steps in this place to—

Mr Berry: And then we don't have to take any notice of it.

MR HUMPHRIES: Mr Speaker, both Mr Stanhope and Mr Kaine were heard in silence. I would ask for the same privilege.

Mr Berry: Their speeches made sense.

MR SPEAKER: Mr Berry, if you keep that up, you will not be here to hear the rest of the comments.

MR HUMPHRIES: Mr Speaker, the fact is that there is an absence of leadership on the part of the Labor Party in this debate as well. When Mr Stanhope was speaking in April of this year about the impending election campaign, he gave a major speech. He talked about a variety of issues. Some of those issues were issues we have touched on in other debates since that time, and issues you might expect to be relevant in the course of a campaign like the one that we are getting under way at the moment.

Mr Stanhope was asked about a drug policy and what he thought about the position of drugs. To quote the *Canberra Times*, he said he was not particularly keen to campaign on drugs; that that was irrelevant to the party's position—whatever that means. That is not a surprising position to hear stated, because it echoes very closely what Mr Berry said as leader of the Labor Party at the 1998 election. He made a major statement early in the campaign saying that drugs were not an important issue for the Labor Party.

Mr Berry: No, that is not what I said at all.

MR HUMPHRIES: You can summarise how you put the words that you used, Mr Berry, but you said in the early stages of the campaign that drugs were not a key issue for the Labor Party in that campaign, and you pushed it to one side. You go back and check what you said about that. Mr Berry was doing it in 1998 and Mr Stanhope has done it in 2001, indicating very clearly that the Labor Party would rather not talk about this issue.

Indeed, the Labor Party was instrumental in killing off the supervised injecting facility in June of last year by voting against the provision of money for it in the ACT budget at that time.

Mr Berry: You wanted to get out of it.

MR HUMPHRIES: Mr Speaker, again I ask you—

MR SPEAKER: Mr Berry, you will have the opportunity to participate in this debate if you stop interjecting.

MR HUMPHRIES: Mr Speaker, this referendum is on supervised injecting rooms and a heroin trial, but more importantly it is about choice, participation, community involvement and listening. There are arguments about these particular issues, that is true, and I think we should return to those arguments at some point. But it is also important to talk about the basis on which we make decisions in this place, the basis on which we allow the community to be engaged with politicians in making those decisions.

We live in an age of representative democracy, when we assume that by voting for a party to govern in a territory, state or country we give them the authority to make decisions on our behalf for the duration of the life of that parliament—two, three, four or

maybe five years in some cases. We expect that that party will exercise judgment based on the sort of mandate they obtained from the electorate at the election preceding their term of office.

The notion of representative democracy is undergoing severe strain at the present time. The idea that we can assign a government the authority to make decisions throughout its life on very diverse, increasingly complex issues, when there has been perhaps no reference at all to the electorate about the way of dealing with such issues, is an increasingly difficult notion to sustain.

I believe that in 50 years time the idea that governments, if they have majorities in particular, will be elected to govern for the duration of their life without reference to the electorate, without any check on their power, without any reference to the community's views on issues, will be seen as antiquated and as quaint a notion as the idea that only men with property should be entitled to vote in elections.

Those notions will have been superseded by developments in the democratic experience. In a place like the ACT, where we have an articulate community, where we have people with a high level of education, with high disposable income, with close access to what governments do, at both the federal and ACT levels, with strong views about many issues, people will be in a position of demanding greater rights about the way in which they will be consulted on major issues. The idea that governments will be able to tick off decisions or cross out decisions without reference to the people will be considered unacceptable at a point in the future.

I want to have a reference to the community at this time by inviting the community to take part in the decision-making on this important issue. This is an issue of enormous importance to this community. We have not chosen an issue on a tangent or an issue of marginal relevance to this community to put to a referendum. We have chosen an issue of fundamental importance to the ACT community.

There are three issues which I think will govern the coming election campaign. They are health, education and crime. The issue of a heroin trial and an injecting place goes to at least two of those three issues—namely, health and crime.

Mr Moore: All three actually.

MR HUMPHRIES: Perhaps even to all three. These are issues that will be at the very core of public policy in the ACT in the coming years. Yet people in this place are prepared to get up and say, "We know what is best for you, the electorate, on those issues. Put us into government and we will make the right decisions for you on those questions. We do not really care what you think about those issues individually, discretely. We know what is best for you. Let us make the decision. You just trust us. Put us in government and we will make the right decisions."

I think this community has heard enough debate about these issues in the last five, six, seven, eight years to be able to form a view of their own about this. Expecting that if you vote for one party you will get one view and that if you vote for another party you will get another view is a simplistic and inadequate approach to the complexity of this issue.

People are entitled to choose between parties, for example, on the basis of their philosophy or their approach to government but also on the basis of what they think about particular policy issues. This one is the daddy of them all, the issue which is ultimately going to govern the way in which our community operates in the next few years if we do not get it right.

This community expects leadership from this Assembly on these issues. What we are offering them today is not leadership. What we are offering them is a vacuum. By not passing this bill, we are saying, "Trust us to sort this matter out in our own way after the election in our own time." Mr Stanhope says, "We will watch the New South Wales injecting place trial, and we will make a decision or assessment after that." He says, "There should be a national consensus on a heroin trial, and we will make a decision once we have got that in place."

Those are promises to put the decision off. Just as Mr Berry in 1998 said he wanted to put the decision off, just as the Labor Party voted against funding of the injecting place in 2000, and just as the Labor Party today does not want a referendum on this issue, it is an opportunity to put the matter off.

I do not like going to the electorate at any time, particularly at an election, and asking them to vote for me without at least some vestige of a solution to certain problems. An unquestionably large problem facing this electorate at this time is the problem of drugs. If we go to the electorate without a solution on that, we will have failed the electorate. Similarly, if we go to the electorate without a sense of involving them in the solution and we will have shown a contempt for the electorate.

I believe it is time for us to be strong enough, to show enough strength of leadership, to say, "Here are the arguments. We are putting them on the table. We know what the pros and cons of the issues are. We know how these issues are felt by the community. We are going to talk about them with the community. At the end of the day we will accept the community's view about these matters." That is not weakness. That is not a lack of leadership. That is in fact strength of leadership—to be able to say, "I have a view about this, but I will accept the view of the electorate if it is different."

People have attacked this notion in this debate today. Mr Stanhope in particular has said, "All the Liberal Party members will go around with their views on this matter, but then after 20 October will they be expected to vote in a particular way?" That is a phenomenon called democracy. It is a phenomenon which says you can express a range of views. You can argue your case out in the electorate, but at the end of the day you have to accept that people have the right to have a say in these matters.

I will campaign in this coming election campaign for a Liberal government to be elected, and I will vote consistently and argue consistently for the Liberal Party to be returned to office. But if on 20 October the Liberal Party is not returned to office, I will take the keys to my office out of my pockets and I will hand them over to Mr Stanhope and say, "Here you are. Here are the keys to the Chief Minister's office." I am a democrat, with a small "d". I believe in the democratic process. I believe the people have the right to make the decision about this issue, and they have the capacity, the knowledge and, in a place like Canberra of all places, the level of understanding of these things to be able to make a rational decision about them.

We have heard a variety of excuse-type arguments in the course of this debate today—for example, that drugs policy is a health issue and it should not be put before the people. Drug abuse is a health issue. It is also a crime issue. It is also a social issue. It is a moral issue. Above all perhaps, it is a controversial issue. It is an issue on which there is enormous heat in the community. Treatment of heart attacks is not controversial. Supplying heroin to addicts, providing them a place to do so, is highly controversial. For that reason, we need to get the views of the community on those questions.

We have also heard that a referendum will be lost because the community is not sufficiently educated about the issues and will be swayed by cheap rhetoric by conservative elements. It says a lot about the outcome that people who oppose this referendum want in this matter that they are prepared to say, in effect, "I might lose this referendum. Therefore, I will not allow it go forward. I might be defeated, so I am not going to give people the chance to defeat me." How much leadership is shown by that position? How much sense of confidence in the democratic experience does that exhibit?

I think that this community, of all places in Australia, has the sophistication and the understanding to be able to digest these arguments comprehensively and well, and to be able to make an educated decision about them, in the two months between now and 20 October. There has been enormous debate already. We have already had a huge amount of exposure to the arguments, and I believe the community have digested those arguments very well.

Mr Stanhope says that the majority of referendum questions fail. He then points out, almost in answer to that, that we do not usually put social issues forward in a referendum. Indeed, we do not. That is why we need to give that experience, that phenomenon, a chance to work.

Mr Stanhope also says, "Why not allow the New South Wales trial to be completed before we then assess what to do about it?" I would accept that argument if Mr Stanhope were to say to us, "When we see the results of the New South Wales SIP trial, then we will have a referendum and decide whether the community supports proceeding in the ACT with such a phenomenon." But, of course, Mr Stanhope is not saying that. He is saying, "If we believe that the trial in New South Wales has been successful"—however you define that—"then we will do it in the ACT. If it has not been successful in New South Wales, we may or may not do it in the ACT." I am not very clear about that. The leadership we have seen from the Labor Party has been very much wanting.

Mr Stanhope also criticises the idea that Liberal Party members can participate in a conscience debate on this matter prior to 20 October when, as he says, "Then you will have to follow your leader." *(Extension of time granted.)* I do not know whether he meant to say that, but we are not saying to Liberal Party members that they must follow their leader after 20 October—quite the contrary. We are saying they should follow the electorate—what the community says at the referendum it believes should happen on this matter. That is what we are saying.

Fancy being criticised by a person who begrudges us exercising a conscience vote on this issue when he is not prepared to allow any of the members of his party to exercise a similar conscience vote on this issue. Not one of your members has freedom of choice

on this matter, Mr Stanhope. Every one of them is being told, "You will support the party policy on this matter"—whatever it is—"and you will vote accordingly on the floor of the Assembly."

Are you telling us, Mr Stanhope, that every member of the Labor Party in the ACT—all 700, 800, 900, 1,000 of them, or whatever the number is—believes in a heroin trial, believes in an injecting place? Do not tell me that they do, because I know they do not. I have friends who belong to the Labor Party and they tell me that they do not believe in these things. I am also told that some of your candidates do not believe in the idea.

Mr Stanhope: They are happy to be held accountable for the position.

MR HUMPHRIES: They are happy to be held accountable.

Mr Stanhope: They are happy to be held accountable for the position and they will not change their minds. They will not say one thing and do something else.

MR SPEAKER: Mr Stanhope, do you want to hear the rest of this debate? Stop interjecting.

MR HUMPHRIES: This is the approach we are going to get from Labor in this debate—win the debate by shouting people down on the floor of the Legislative Assembly when you have the numbers. Do not ask the electorate what they think. The electorate does not matter in this equation. The electorate's views are not important.

Let me turn to Mr Kaine. Mr Kaine said that the Liberals will not respect the result of the referendum. I think I have made it patently clear that we will; that all Liberal members, without exception, will respect the result of this referendum.

Mr Berry: Mr Pratt?

MR HUMPHRIES: Yes. I have asked all Liberal members. All Liberal members have been asked and they have all indicated their agreement. If you do not believe me, you go and ask them.

Mr Kaine went on to say that he did not believe in a referendum. That is an ironic view, because Mr Kaine was elected to this place in 1998 on the platform of supporting referenda to be conducted in the ACT, specifically citizen-initiated referenda.

Mr Stanhope: That was imposed on him, though.

MR HUMPHRIES: Not at all. It was party policy in which Mr Kaine had a chance to be involved. Mr Kaine, to my recollection, never argued against it in the Liberal Party room. In fact, not just to my recollection—

Mr Stanhope: It is only the Labor Party that imposes views?

MR SPEAKER: Order, Mr Stanhope!

Mr Stanhope: Moral bankruptcy is about right.

MR SPEAKER: I warn you, Mr Stanhope.

MR HUMPHRIES: Mr Kaine was elected on a platform of supporting referenda in this place. It is a sign of how far he has come in abandoning the principles on which he was elected that today he says he is opposed to a referendum on this issue.

I have put forward, and my colleague Mr Stefaniak has put forward, this issue as a way of providing a break in the deadlock which has beset this place on drugs issues. I do not believe that we are going to see a clear indication of direction on these issues unless the community is involved in resolving them. I do not believe that the issues which have stopped us from proceeding on these issues are going to be resolved, one way or the other, without there being a referendum. I believe we need that referendum, for that reason.

I think that today a major opportunity to see these issues advanced in the community's interests may well slip through our fingers. If this bill is defeated today—and I suspect that it may be—I think that this opportunity disappears and that the chance for the community to be active participants in making an important decision about the future of this policy will have disappeared.

I want reform on drug policy. My position has been very clear. But I do not believe that reform will occur unless we change the dynamics of the debate. If we do not support this Referendum Bill 2001 today, then we lose the chance to influence the way this debate will go in the broader community.

The cockpit of decision-making will move outside this community. Other places in Australia will perhaps over time take on these issues and advance them in their own particular way. The chance to conduct an injecting place trial in this territory was lost last year. Now, rather than the ACT being the leader in Australia, New South Wales is conducting a trial of this concept. We may well be eclipsed in other respects in this debate as well.

It is a matter of great regret to me. It is a matter of sadness. It is a vacuum of leadership—not by this government, which has had the courage to say to the community, "We want to involve you in this debate and want to respect the decisions you make in this debate, but by this place, this Legislative Assembly for the ACT." This place has had several opportunities to advance this debate. It has squibbed them all, and today it squibs one more.

MR RUGENDYKE (11.46): I rise in support of the referendum, as I wholeheartedly believe that the people in the community are entitled to have a say on the direction we take with combating the drug problem in our community.

Members are aware that I have a well-known and fixed position on these issues at the crux of the questions proposed in the bill. This was demonstrated by the fact that I took the extremely serious step of voting against the health line and the budget to stop the heroin shooting gallery going ahead last year.

I don't believe that this is the time to have the debate and fight the specifics of the broader drugs issue. But it is the appropriate time to put on the record that the community cannot be sidelined in this important social issue. If the genuine prevailing view is that the community does not want to have a heroin shooting gallery or heroin handouts imposed on it, that view must be registered and put in the strongest possible terms to the elected representatives of the next Assembly.

If I am returned in the next Assembly, I will stand my ground on these issues, as my constituents would expect. It would take an absolutely overwhelming yes vote at the referendum for me even to consider shifting my position. As an Independent, I am one voice and one vote. I will hold the line against this madness as long as possible.

In the event that I am not here next Assembly, you can be sure that the two major parties will be back in some form, and it is important that I remind members where the two major parties stand on these issues.

Firstly, we have the Labor Party, which gave the health minister, Michael Moore, the numbers to pass the shooting gallery legislation in the first place. If Labor had its way, the shooting gallery would have received the green light long ago. If Labor is in power after the election, it certainly means that a shooting gallery is not far behind. Secondly, we have the Liberals. This party is split on the issue. So it is a very real possibility that a shooting gallery will materialise after the election if it retains power. My point is that no major party can claim it has a right or a mandate to follow the path of legalising heroin until it asks the people.

Making destructive drugs legal through heroin trials and shooting galleries is a monumental shift, a quantum leap. There is a groundswell of concern in the community about these measures. It should not be left up to an elite band of designated experts to tell the community, "This is what you must do." These are the same people who say that we have to try different methods. These are the same people who have controlled the harm minimisation agenda that has only made the problem worse.

People in our community are not mugs. They know that the only alternative is not supplying drugs and making heroin legal. They also know that there is no evidence to suggest that it can be successful. But the community does know there are other options that are a proven formula, like the harm prevention model that has been so successful in Sweden. Mr Speaker, what are the yes supporters afraid of? I think it is quite clear that they know where the community is really at.

One fundamental aspect of this debate about the proposed introduction of shooting galleries and heroin trials is that at the moment heroin abuse, possession and usage are illegal. If you wish to make them legal, the community must have a say at a referendum.

The politicians are at a stalemate on this issue. It is time we made a decision on which direction to follow. But I repeat that the major parties cannot use the election outcome to claim a mandate on legalising heroin. They must accept input from the community. I have every confidence that our community will provide a considered input if this referendum proposal is successful.

MRS BURKE (11.52): We heard the Leader of the Opposition talking about a shameful exercise, a stunt, an abrogation of responsibility. This is an insult to the people's intelligence and their ability to be involved in this serious issue that affects the whole community.

This bill will provide the people of Canberra with a say on two very contentious issues that have been on the table for some time—namely, a supervised injecting place and a clinical heroin trial. I would suggest that, far from bringing this government into disrepute, as has also been said, it shows courage, leadership and choice. Far from using people, it engages people and empowers them in the process. People in Canberra do have a good understanding of the issues involved. It is disturbing to me that the ALP always seem to be crying for more time while in the meantime people are dying on our streets. We have a government that is showing courage.

There has been strong and vigorous debate about the merits of the proposal over a period of some years. It is very rude to insinuate that this government is somehow now using people for political gain. It is very distasteful. Over the past few months, debate has been renewed by the prospect of a referendum. A plethora of letters and feature articles have been published on this issue, and a number of surveys have been conducted to gauge community opinion. People, young and old alike, have been discussing the issues with me in community meetings, at shopping centres and in workplaces. People are ready to add to this debate and make their contribution.

Mr Speaker, there is genuine concern about this issue. Parents are worried about their children's future. Young people themselves worry about the drug culture that surrounds them. Where is the hope? Where is the future? The community worries about the impact of drug addiction on our crime rates.

I believe we are ready. We are ready and prepared as a government and as a community to take some action. We are a government that has the courage of our convictions. As has been said by the Chief Minister, we will accept the view of the electorate. We are ready for strong and vigorous debate, not here in the Assembly, but out there in the community. The community cannot be barred from having a say in this matter. Who do we think we are in this place to prevent and preclude the broad community from having their say on this issue and exercising their democratic rights?

Mr Hargreaves: You are elected to do it.

MRS BURKE: That is a good point. We are ready to be put these two proposals to the test. As human beings, you cannot deny this: we all have been given a free will to make choices. The right for people to have their say in this referendum is the most democratic approach. The community have to be ready to accept the decision of the majority, and the government will stand by that. That is why we are elected.

A couple of years ago the former Liberal Party president John Elliott told a luncheon that drug abuse was "an overstated issue". "It was bloody important," he said, "that they, the government, won't be sidetracked by it." "The only policies that count," he went on, "are economic policies." There are plenty of people who are giving the same kind of advice to the Canberra Liberals and to others in this community. They say drugs are a distraction; that they are not one of the real issues. How blind can you be?

They should be telling this to the parents of Canberra's children. They should be telling this to the families who have lost sons or daughters, sisters or brothers—indeed, many will know that I have had this happen to me personally When you are impacted by it, it changes your perspective. It changes and broadens your outlook. They should be telling this to the victims of crimes caused by desperate addicts seeking funds to feed their habit. Drug use, in particular heroin use, is a very real problem in our community, every bit as important as getting our budget in the black and creating the right environment to help our business sector thrive. I believe that unless we get the drug problem right we do not get the rest of the things in the community right. It follows.

We as a society are often far too obsessed with economic goals and lose sight of those things that matter to most Australian families. I am pleased to say that the ACT government has been a notable exception, with a focus on policies such as family policy, social capital, early intervention, innovation and addressing poverty. We have had a go. We have had the guts to get up and have a go and take some action. We are fighting on many fronts to counter the impact of drug addiction in our community.

Mr Stanhope talks about morals. How moral is it not to allow people an opportunity to have a choice and a say in this matter? Is it not better to engage the community than to tell them what we think is best for them? Additional services that this government has funded, as you are aware, include:

- expanding the public methadone clinic programs to meet increased demands and provide the latest treatments, which despite all the negativity are saving lives and allowing people to live a life with some semblance of order, dignity and respect;
- establishing an alcohol and drug family skills program for parents, crucial in the breaking of this cycle;
- providing half a million dollars a year for enhanced drug and alcohol services; and
- funding a four-bed residential withdrawal service in association with the Ted Noffs Foundation.

All these things are positive steps forward, for the word is out there about the drug debate. People are involved already. People are not stupid. Do not let us in this place underestimate people's intelligence, please. The health minister, Mr Moore, deserves praise for his focus on these issues and his tireless work towards bringing the debate to a broader and wider audience, often against much opposition.

But we recognise that, despite our best efforts, more needs to be done, and the community recognises this also. They know more needs to be done. The question is: what can we do? Advocates of the heroin trial and injecting place say these measures will make a real difference, saving lives, reducing crime and offering real hope to many who have lived with nothing but despair and anguish. Opponents say these proposals send the wrong message to the community and will not help heroin dependent people get rid of their addiction.

Mr Speaker, I implore this Assembly to consider that the referendum offers us all one important thing, and that is the opportunity to have a real say in these future directions.

MR MOORE (Minister for Health, Housing and Community Services) (11.59): I very firmly believe that should a referendum be conducted during the election the outcome would be positive. I have looked at a range of polling where the questions were asked in such a way as to generate a negative outcome and they got a negative outcome, and I have seen polling where the questions were generated in a more neutral way, as in the bill before us, and the outcome was more positive. Although we might believe it, none of us know that. I image there are many people here who believe the opposite. No matter what the outcome of today's debate may be, it would be very interesting for the *Canberra Times*, for example, to ask Datacol to do a poll on the very questions that are in the bill today to see what the outcome would be.

If I was going to be persuaded by arguments today as to how I should vote on this issue, Mr Rugendyke would be the single most influential member. There could be nothing more appalling than the case that he put: "We should listen to the people and we should look at the outcome of a plebiscite"—and we are actually talking about a plebiscite—"It does not matter; unless it was totally overwhelming, I would still ignore it. I have my opinion and it is not going to change."

At least all members of the Liberal Party—whether or not they agree, as the Chief Minister does, that we should hold a trial of heroin, which is the most important question before us—have said, "We will be bound by the outcome. We see a higher order issue."

The opposite to that is to say, "Yes, we want to have a referendum, but I am not going to be bound by the outcome, because I am not going to change my mind." If that is the case, why would you want a referendum? To me, it simply defies logic.

Mr Rugendyke also talked about the "failed" harm minimisation policy. I would like to give you one example of why you are wrong on this, Mr Rugendyke, and I hope it makes you rethink that issue. The most significant harm minimisation policy that has been trialled in Australia is the provision of clean needles and syringes to our users. Because of that policy, we can compare the number of paediatric cases—and I know you have a real interest in children—of HIV in Australia to what happens in New York. In New York you are looking at some 40,000 cases. In New South Wales you are looking at fewer than 100. It is not just the users themselves that have benefited from harm minimisation policy. It is the community as a whole.

My final decision has been made this morning. Will a heroin trial be furthered by a yes vote or will it not be furthered by a yes vote on the referendum bill in front of us? I think it will not be furthered by it, and therefore I will not be supporting it. It will not be furthered by it, because even if it were to get up, even if the referendum were to pass, and even if a Liberal government were to be elected, Mr Osborne and Mr Rugendyke would find a way to ensure that, even if the Liberals all agreed, the matter did not go ahead.

We have seen them exercise that power in the past, not necessarily on this issue but on a range of other issues. They cannot exercise the power by themselves. They are only two votes. As Mr Rugendyke points out correctly, he is only one vote in the Assembly. But there are ways of using their power and getting others on side. We saw it demonstrated with regard to the supervised injecting room. A government bill was

supported by the Labor opposition, yet when it came to funding they found a way to vote against it. They found a way to manipulate it.

I have spoken to Gary Humphries on this matter on many occasions, and I do not for one minute doubt his sincerity on this issue. I am not blind to the fact that there may be some advantage for the Liberal Party in making this an election issue. But I am also not blind to the fact that the Labor Party has an overwhelming need to go against it and to make sure that this is not an election issue by referendum. There is without doubt self-interest in the case of both parties. Mr Humphries has an interest in ensuring that it proceeds, but there is at least as strong a self-interest, or probably even stronger self-interest, from Labor in making sure that it does not proceed.

I have spoken to Mr Humphries about this on many occasions, and I do not for one moment doubt his sincerity.

Mr Berry: Make that point again, Michael.

MR MOORE: I will come back to Labor for you, Mr Berry. I do not for one moment doubt the sincerity in seeking to have this come to a referendum and come to an outcome. In fact, I have discussed with him the likelihood of getting a positive outcome and whether he would then do everything within his power to deliver it, and I think he would.

Mr Stanhope talked about having courage. My measure of courage in the Labor Party will not be tested now. It will be tested only if they are in government at the next Assembly. I look at the policy of the Labor Party locally on these issues, and I look at the policy of the Labor Party federally on these issues. I concede that they are certainly better than the Liberal Party's policies.

But there is a dog-whistling characteristic about the policies. The local one is saying that, if there is a nationally agreed approach, then they can go along with this; and the federal one is saying that, if the states and territories wish to do it themselves, then it will be supported. It has a way out in each case. The policies are there with a way out and with that dog whistling characteristic of trying to appeal to the broad membership and the broad voters of the Labor Party. But unless Labor is in government we will not know whether they are prepared to push and to follow it through. We do have the experience that Mr Stanhope was prepared to lead his party to support the legislation on the injecting room. The injecting room is a very poor second to the heroin trial, but it certainly is better than doing nothing.

That brings me back to the statements of Mr Kaine, who suggested that we are doing nothing with regard to drug policy. It is not true, Mr Kaine. In the ACT there are in the order of 1,500 heroin users. We have programs available for in the order of 1,000. That is a two-thirds ratio. That is better than any other jurisdiction in Australia by miles. There is no waiting time for the methadone program. There has not been a waiting time for the methadone program for a long time.

Methadone is still our most successful treatment, by all research throughout Australia. It does not suit some people who say, "We do not want that style of treatment. We just want them to have nothing to do with drugs at all. We do not want them to take Disprin,

aspirin or anything else." Research shows very clearly that methadone is still our most successful program. There was also the commencement of the Ted Noffs Foundation for young people and extra money. You can go back to the budget for those.

There is something else that I think was important for me to ask. Who will this referendum suit most of all? Where are the levels of self-interest? I touched on Labor, and I do not need to do that again. I think most importantly it will be useful to the conservatives. Within the Liberal Party and those around me, I think there are both small "l" liberals and conservatives. When I talk about conservatives, I am not talking about just the Liberal Party. I am talking about members within the Liberal Party, and I am talking of those on the crossbenches over there, and to a certain extent Mr Kaine, but I am not concerned about him, because by voting against it he has shown that he is not taking an attitude like that.

It seems to me that it is conservatives who in the coming election would benefit most greatly from this debate taking a major focus. I have been in this Assembly too long, with too many conservatives, including yourself, Mr Speaker, not to believe that our community will be much better off without such a strong conservative representation.

We have a Hare-Clark proportional representation system, and I think conservatives should be represented proportionately. I think they are over-represented. I do not say to each individual one, "You are better gone," although I could do that. What I am actually concerned to say is that we will be better off having less—

Mr Hargreaves: Don't feel restrained. Go for it, Michael. Let yourself off the leash, Michael.

MR MOORE: Don't you start anything, Mr Hargreaves. You might be the conservative I point to.

Referenda give a majority approach. This applies more strongly to citizen-initiated referenda. We will get on to that debate next week. Referenda give a majority view. A majority view is easy to pander to. A majority view is always a simple solution. I would like to echo the comments of Mr Stanhope when he used the example of the provision of needles and syringes. The majority view when that was implemented on a bipartisan basis was clearly against it. We think we have problems with our hospitals now. That is true right around Australia. Think of the level of problems had we had HIV spreading, as would have been the case if we had not had a needle and syringe provision program.

Referenda are about majorities. Parliaments can easily look after the majority. In fact, dictatorship, probably most successfully look after the majority. The challenge for parliaments is always to see how successfully you can look after your minority groups. That is why we should be incredibly wary of referenda, certainly citizen-initiated referenda, but we should be incredibly wary of a referendum on social policy.

Mr Stanhope raised the strange notion that the Chief Minister and Mr Smyth had somehow ratted on a cabinet position or a Liberal Party position on the supervised injecting room. That is not the case at all. I took to cabinet legislation on the supervised injecting room. I got the numbers in cabinet. Mr Smyth and Mrs Carnell supported that,

giving me the numbers I needed to have a government bill for the house. Mrs Carnell, the then Chief Minister, as was her prerogative, allowed a conscience vote to some members of cabinet on that particular issue. That was not the only time she did it.

This raises a very interesting issue about crossbenchers and parties that come out through this process. If there was a lot more conscience votes and a lot more room for members of parties to express what they really believed, I think that the growing movement of Independents, One Nation and parties of that kind would be reduced. People in the electorate find a frustration with the major parties having a single position when they know that members of the party have a different personal view. I doubt whether that will be influential on parties, but if they want to resolve the problem of the growing Independent movement across Australia that would be my advice on dealing with it.

In conclusion, there is no doubt that almost everybody here has some self-interest. I have not declared my self-interest. My self-interest is that I have worked for 12 years to try to ensure that, amongst other things, we attempt to deal with drug problems in a wide range of ways, including by trialling the provision of heroin, not in the way that Mr Kaine suggests, by GPs providing it, because that would be inconsistent with our international treaties. I would not disagree with his concept if it were in a way that was consistent with our international treaties. *(Extension of time granted.)*

I have a personal interest in seeing a positive outcome in terms of a heroin trial. In fact, there is another self-interest here. Because I am not running for election, I could put more effort than almost anybody else could into a campaign on this. I think that would help give us a positive outcome. I can tell you now how we would run the campaign. We would run the campaign on the slogan "stop the burglaries". That is not the only issue. It is much more complex than that.

We would look at a campaign—and I am sure I would sit down with colleagues in the Labor Party and the Liberal Party who want to do this—and we would say, "What is the best way to run this campaign to win?" That is what a referendum is about. We already have the health lobby on side. They know what we are talking about. That is not who you are trying to win over. You are trying to win the middle ground. How are you going to win the middle ground? Stop the burglaries; stop the breaking into cars. By and large, that is what the referendum would be about.

The other side would run the same statement as the Prime Minister made: "Don't send the wrong message." That is by and large what it would come down to. That is such an oversimplification of what we need to discuss and what we need to debate on this issue that it is not acceptable to me. So I shall be voting against this legislation.

MR HIRD (12.15): Mr Speaker, this is not just a problem within the ACT or indeed in Australia. It is a problem right round the world. There need to be innovations. There needs to be involvement of not only the addicts but the families. Families need to be brought into the equation. There needs to be some change of attitude by governments. To move this forward, a parliament should be listening to its constituents.

There are many ways of achieving that. A commendable way is by referendum. We had a national referendum about whether we should remove the current arrangements in Australia to do with the monarchy. The people spoke.

This issue is of such huge importance that it needs to be put to constituents in a way that allows them to express their concerns. I am saddened to hear the words of our colleague the Leader of the Opposition speaking on behalf of a future government. If the things go the way that they could on 20 October, he might well become Chief Minister. His government will have to deal with this problem. His government will need an input from the community so he can get the results he needs.

Mr Wood was a member of the Follett government. So was Mr Berry. Indeed, Mr Berry was minister for health in the Follett government. He knows the law enforcement problems that that government had to tackle. If you doubt that there are health problems, talk to a GP. If you doubt that there is a problem in the policing arrangements, talk to police officers, as I do. Recently, out of 100 addicts, 60 or more indicated that they had committed a crime. Burglary is the most predominant one that comes to my mind. These are facts.

To sit on our hands and do nothing would be to abrogate our responsibilities to a community that needs to have a say on this issue and wants to have a say on this issue. A referendum is a fundamental requirement to allow the citizens of Canberra to have a choice, to participate, to be involved and to be listened to.

During the campaign some arguments will be put against the two questions. That will be the right of those putting those arguments. But at the end of the day the people will have spoken and a decision will have to be made on that referendum.

I was interested to hear that a referendum will cost $200,000-plus. I think Mr Kaine said $210,000. What is the cost to the community of crime, detoxification and the educational programs that have been undertaken? What is the real cost? It is millions of dollars and the sad loss of young lives through addiction.

At the election we will be leading the rest of Australia in electronic voting. I remind members that on 20 October there will be a trial of electronic voting. This bodes well for future referenda questions. It would be very simple to do. This is progressive move.

We have to find alternatives. To do that, we have to be strong enough to take the issues to the people we serve. I believe that putting a referendum to the people of the ACT on 20 October is required.

Mr Stanhope, the Leader of the Opposition, said earlier this year that a referendum was not suited to complex issues. He said:

> Referendums are not the way to set public policies, and particularly on issues of such complexity that demand a multiplicity of responses. They are more properly used to decide questions about our systems of government.

I reject that view. I believe that these issues are so contentious to our community that we have an obligation to listen and take heed of what the community requires. If not, what are we afraid of? Mr Stanhope, in an interview last week on radio 2CA, said that governments and politicians are paid to make decisions. I agree that they are paid to

make decisions, but complex issues such as the heroin trial and others should be put to the people, in my opinion.

As I indicated earlier, major crimes not only in the ACT but throughout Australia result from the need of addicts to feed their habit. A report released this month by the Australian peak law enforcement body, the National Crime Authority, recognised the importance of addressing these issues. It stated:

> We must respond to the ongoing progression of these problems. Among many issues worthy of consideration is to control the market for addicts by treating the supply of addictive drugs to them as medical, and treatment matters subject to supervision of treating doctors and supplied from a repository that is government controlled.

That is their view. It is not a view that everyone will agree with. Indeed, the Prime Minister made a strong statement in respect of that. But it shows you that this is a matter that organisations are trying to come to grips with. The proper way to resolve these questions is to ask the community. Ask the residents. As I said earlier, what are we afraid of?

On this side of the house we have a conscience vote. I was interested in what Mr Kaine had to say. Mr Kaine was elected to this place as a Liberal in 1998. For reasons best known to him, he crossed the floor to represent the United Canberra Party. That is his business. But the fact is that when he was elected here he was elected on a policy to allow people in the community to have their say not only through their elected representatives but by other means, namely, a referendum.

The two questions in this referendum are very clear. I would urge all members to strongly support this bill. I would also urge whoever is in government after 20 October to implement the community's wishes, whether they accord with what I believe or are contrary to what I believe, in respect of the two matters that are on the table in this bill. I would also urge members to allow our community a say in this very difficult issue affecting not only our community but communities throughout Australia and the world. As a small parliament, we can show some leadership to other jurisdictions, not only within Australia but around the world. I support this bill.

Sitting suspended from 12.27 to 2.30 pm.

Visitors

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

Ministerial arrangements

MR HUMPHRIES: Mr Speaker, in the absence of Mr Smyth, I will be fielding questions on his behalf.

MR SPEAKER: Thank you.

Questions without notice
TransACT

MR STANHOPE: My question is directed to the Chief Minister. A report in Saturday's *Canberra Times* quotes the TransACT chairman as saying the total rollout of TransACT would cost something over $200 million. Can the Chief Minister, one of two voting shareholders of Actew, now a 36 per cent shareholder of TransACT, tell the Assembly exactly what the rollout will cost? In other words, how much over $200 million will it cost? How much has TransACT now raised for the rollout following this latest call on shareholders for additional investments?

MR HUMPHRIES: I thank Mr Stanhope for that question. Both of the questions to some extent ask for information about the detailed workings of TransACT itself. I emphasise that TransACT is not a company owned or controlled by the ACT government. It is a private enterprise which is providing a range of services under contract to members of the ACT community. It is rolling out its cable in order to be able to do that.

The details of how much money it will cost to complete the rollout of infrastructure by TransACT in the ACT is a matter that I do not know. I am not sure I am in a position to know since the total outlets in the future are difficult to determine, I suspect, at this stage. Secondly, that is a matter which goes to the extent of the cost inputs and the extent to which those cost inputs change over a time. The estimate that was given by the company in the newspaper on the weekend, I suspect, represents the position as it is estimated at the moment.

I can give you an estimate of what the ACT's direct commitment in TransACT is by virtue of its shareholding through Actew. There is presently an investment by Actew to the tune of $39.5 million in TransACT. Actew has committed itself to providing up to $20 million further over the next 12 months, therefore raising its investment to just under $60 million. That raises its shareholding to 35.61 per cent. That assumes that the additional commitment would be fully taken up by TransACT, and that might not be the case. It is simply a commitment to supply the money in the event that TransACT requires it. There is some indication that it might not require all of that amount.

The extent of commitment by other shareholders is a matter that at the moment is being explored by TransACT, and those arrangements are not yet complete. I think, Mr Speaker, that that is appropriately a matter that TransACT needs to continue to focus on.

For our part, we will continue to monitor closely Actew's investment in TransACT and to approach the matter on the basis that TransACT is an extremely important venture, the health of which is very important to this community, and which for that reason has in-principle support from this government to continue. It represents an investment in this community which is of incredible importance to us in the future.

MR STANHOPE: I have a supplementary question. I thank the Chief Minister for his answer. I regret that we do not know the possible cost of the full rollout of TransACT. Accepting, as the Chief Minister would, that the estimate provided by the chairman of TransACT that the rollout would cost something over $200 million, and accepting that

the level of commitment by Actew and other shareholders in the role of TransACT at this stage is much less than that, can the Chief Minister tell us whether he has been advised by Actew of the possibility that Actew would be asked to fund some of that shortfall, as evidenced in the current level of commitment and the total cost estimated by the chairman? If so, does he anticipate that Actew will contribute more to the TransACT rollout?

MR HUMPHRIES: Mr Speaker, I think it is worth noting that between the first and second iterations of those questions the idea of an investment or rollout became a shortfall. I have not said in my answer to the first question anything in respect of a shortfall, and to the best of my knowledge there is not a shortfall.

TransACT is in the position at the moment of securing commitments or actual dollars in its bank account to cover the cost of the rollout. Not knowing exactly what the cost of the rollout will be until it is completed, I suppose they would not say that they can be 100 per cent certain that they have enough in promises or actual dollars to meet that rollout.

My understanding is that, with the commitments that they have secured or are in the process of securing and expect to secure, there would be no shortfall; that the total cost would be met. That may not be met necessarily by commitments by shareholders entirely. It may be met in a number of ways by things such as vendor finance, or by such things simply as the sale of its services to the ACT community, in which case that brings a return and that pays for the services to be rolled out.

I think it is dangerous to talk about a shortfall as if there is a gap between what TransACT needs to spend and what it has in the bank and to describe it as some kind of gap in its capacity to deliver and therefore some sort of major problem. I think that is not the tenor of what I understand to be TransACT's position. Again I emphasise that this is what we understand are TransACT's arrangements, having indirect interest as a shareholder in Actew and in TransACT.

It is worth recording what an important investment this is to the ACT community by noting the comments of Paul Budde, an independent telecommunications analyst who spoke on ABC radio this morning. He was asked whether he thought the idea of having a broadband cable rolled out around the city was a good one. I quote his response:

> It's absolutely fantastic. It is a great win for our society, where we can have lots of new services in … education, telehealth … and it's great for the economy because it allows businesses to conduct e-commerce and to extend their businesses overseas … So it's an absolutely fantastic decision that ACTEW made.

He also went on to say:

> And that's why the decision—

the decision by Actew to increase its investment in TransACT—

> was so incredibly important, that the shareholders said, okay, we believe in it, we go on, and we fund the organisation properly.

Mr Speaker, there were other things that were very positive about that. I emphasise again to members of this place that TransACT is a venture that carries with it risk. That is the nature of the beast. It is in the telecommunications market, which is an inherently risky market, and it is at the new technology end of the telecommunications market, which makes it even further into the field of being a venture-carrying risk.

Let nobody pretend for a minute that we are not acknowledging that. We are stating fully that we acknowledge that there is a large degree of risk associated with this. But the risk must be balanced against the possibility of very significant advantages for this territory if it is rolled out. For that reason I say it is important for us in this place, as custodians of the public interest, not to let an opportunity like this slip through our fingers, while at the same time remaining vigilant about the obligations which we have to the public purse of this territory.

Bill of rights

MR HIRD: My question is to the Attorney-General. Mr Stefaniak, as Attorney-General and first law officer, you have the responsibility of overseeing the laws of the territory. Are you aware of the proposal to introduce a bill of rights?

Mr Corbell: Do tell!

MR HIRD: Just simmer down, son. You'll get a go in a minute.

Sir, are you aware of the proposal to introduce a bill of rights in the ACT? What is your response to such a proposal, and are you aware of alternative views to such a proposal?

MR STEFANIAK: I thank the member for the question—

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

MR SPEAKER: He is being asked as Attorney-General about a bill of rights. I am not aware of any executive policy on it, Mr Kaine. But Mr Stefaniak will be aware of that himself and would have to avoid it.

MR STEFANIAK: Thank you, Mr Speaker. I will continue. Mr Hird has asked for the government's response.

MR SPEAKER: Just be careful, Mr Stefaniak.

MR STEFANIAK: Thank you, Mr Speaker, and I thank Mr Hird for his question. I am aware that those opposite have proposed, as the cornerstone of their justice and community safety policy, a committee to investigate the establishment of a bill of rights for the ACT. I often wonder what goes through the heads of those opposite and how much the Labor Party is in touch with reality in relation to this. Here is a party that purports to represent the people of the ACT—

Mr Corbell: On a point of order: standing order 116 states that questions may be put to ministers or any other member in relation to matters that they are responsible for. As far as I am aware, Mr Stefaniak is not responsible for the issue of a bill of rights. Secondly, standing order 117 (c) says, "Questions shall not ask Ministers for an expression of opinion." I would argue that the minister has been asked for an expression of opinion about the Labor Party's policy in relation to a bill of rights. Therefore, the question is out of order.

Mr Hird: On a point of order: I take it that our good colleague has left a bit out of standing order 116. Questions may be put to a member, not being a minister, relating to any bill, motion or any other public matter connected with the business of the house. So, 116 does not apply and, as for 117 (c) (i), I did not ask him for an expression of opinion.

Mr Humphries: On the point of order as well: the question did not ask about Labor Party policies, and Mr Corbell was wrong in—

Mr Wood: Of course it did!

Mr Humphries: No it didn't. I am sure Mr Hird would be happy—

Mr Hargreaves: He mentioned it!

Mr Humphries: He might have responded by answering about it, but there was no question about it. Mr Speaker, as to a general discussion about a bill of rights, the question of the enforcement of legal rights in the ACT is a matter, first and foremost, for the Attorney-General of the territory.

MR SPEAKER: The question did not ask about the Labor Party or its policy. It asked about a bill of rights, which falls within the area of the Attorney-General, whoever that may be.

Mr Corbell: So, in answering his question, he is not going to refer to the Labor Party. Is that right?

MR SPEAKER: I would imagine that there is no point in doing so, because the question did not relate to it. It did ask about a bill of rights.

Mr Moore: On a point of order, Mr Speaker: Mr Corbell still confuses questions. There are standing orders about questions, which you will find under standing orders leading up to 117, and there standing orders which apply to answers, which you will find at 118.

MR SPEAKER: Please continue, Mr Stefaniak. You are aware of the concerns of the house.

MR STEFANIAK: Absolutely. The idea of a bill of rights is interesting. One could ask where it in fact came from. Where are all the citizens of the ACT banging down our doors wanting such a bill to be put before the house? I would say that the ordinary voter in the ACT has absolutely no interest in a bill of rights. There is no infringement of citizens' liberties in the ACT. There has been no outcry in the territory about liberties,

which we all take as given in our democracy. That would warrant taking up the time and expense associated with taking on what I would describe as just a very trendy issue.

Mr Hird, not all sections of the Labor Party would necessarily agree with Mr Stanhope's views. On the question you ask on the bill of rights, I would pose the question: what liberties have been removed or even threatened, and why on earth would anyone want to pursue this course of action? Perhaps it is because these people opposite are completely bereft of ideas. For that to be the centre plank of Labor policy is really quite amazing. The ACT is grappling with crime, drug-related issues and community concerns like juvenile behaviour and parental responsibility. I do not think people here are remotely interested in a bill of rights.

It is interesting what other people think of a bill of rights. Of course, we in the ACT are surrounded by New South Wales. I read with great interest yesterday an article by a Mr Bob Carr, the Premier of New South Wales.

Mr Stanhope: The honourable Mr Bob Carr! A bit of respect.

MR STEFANIAK: The honourable, Mr Stanhope. It was very interesting to see what he states in relation to a bill of rights. Mr Carr is a very learned gentleman, and I agree with him on this. I do not think he agrees with Mr Stanhope on it, who has expressed a certain view. Mr Carr states:

> A bill of rights does not protect rights. Nor can the courts alone adequately protect them. The protection of rights lies in the good sense, tolerance and fairness of the community. … A bill of rights will turn community values into legal battlefields.

He says:

> A bill of rights will further engender a litigation culture.

He goes on to say:

> The main beneficiaries of a bill of rights are the lawyers who profit from the fees and the criminals who escape imprisonment on the grounds of technicality. The main losers are the taxpayers and society in general through the reduction of values to courtroom weapons.

He also states:

> A bill of rights is an admission of the failure of parliaments, governments and the people to behave reasonably, responsibly and respectfully.

I agree with Mr Carr on this issue, Mr Hird, and I would think most sensible people would. Mr Lavarch expressed a view today on the matter. That is interesting timing, as Jon Stanhope used to work for Mr Lavarch. Perhaps he is coming to the aid of his colleague in relation to his somewhat strange views on this.

In conclusion, I would say that a bill of rights would result in a greater use of litigation, particularly in criminal appeals. We have only recently passed legislation which will establish for the first time a court of appeal in the territory. It would seem now that Labor

proposes to introduce a bill of rights, which, going on the experience of Canada and New Zealand, would see that bill invoked by the accused in many criminal cases.

As Mr Carr quite rightly points out, a bill of rights in those other Commonwealth nations is "routinely used as grounds for trying to overturn the admissibility of evidence, including confessions, evidence obtained under search warrants and breath-testing of drink-drivers". Apart from other issues, it would simply clog up the courts. Mr Carr goes on to say how much litigation there is around the bill of rights in New Zealand and Canada.

So, Mr Hird, a bill of rights is certainly not something this government would countenance. We agree with Bob Carr, not the Leader of the Opposition.

TransACT

MR KAINE: My question is to the Chief Minister. It has to do with TransACT. Chief Minister, I notice that you are attempting to distance yourself from the decisions of the Actew board and the TransACT board on this matter but, given that you are one of the two voting shareholders in Actew and that you therefore do have a direct interest, can you inform us whether or not, in connection with the additional $30 million investment of public money by Actew in TransACT Communications Pty Ltd, you were consulted as one of the two voting shareholders? If you were, were you informed during that consultation that without this further investment the telecommunications company might possibly be forced to seek the appointment of an administrator?

MR HUMPHRIES: I thank Mr Kaine for his question, but I note that he already knows the answer to it, since he was a member of the Finance and Public Administration Committee of this place, which heard evidence on that matter—

Mr Kaine: I take a point of order, Mr Speaker. The evidence that was given to my committee was given in confidence, as the Chief Minister well knows, and what I know or do not know is not a matter of interest, since I cannot reveal what was said to me in that committee hearing.

MR SPEAKER: It was an in-camera hearing.

MR HUMPHRIES: Indeed, Mr Speaker. The fact is that Mr Kaine did hear that question asked and he did hear the answer to that question. It is unfortunate that, armed with that knowledge, Mr Kaine comes into this place, despite the evidence having been provided in camera, and decides to air a question to which he knows the answer by virtue—

Mr Kaine: You can claim confidentiality if you wish.

MR HUMPHRIES: No, I am not claiming that; quite the contrary. I am quite prepared to put the information on the table. I am not claiming confidentiality. I am answering the question, but I make the point that this matter has come to public attention as a direct result of the fact that in-camera evidence given to an Assembly committee was produced in the public arena. Mr Speaker, I think that is a breach of privilege. Needless to say, this

was done by way of a leak to a newspaper, so it is impossible to say by whom this transgression was committed.

Mr Kaine: I take a point of order, Mr Speaker. I hope the Chief Minister is not accusing me of breaching confidentiality. If he is, he will hear about it some more.

MR SPEAKER: I do not think so. The Chief Minister has rightly raised this matter. As all members would be aware, if a breach of privilege has occurred, it requires somebody to contact me to make that fact known. I cannot do anything about it unless that is the case. I do not believe that any inference is being made. Mr Humphries is simply stating the fact.

Mr Stanhope: I take a point of order. No, he is not. The Chief Minister has just alleged, Mr Speaker, that you, Mr Kaine, Mr Quinlan or the committee secretary leaked information to the *Canberra Times*. He has just accused you, Mr Speaker, of breaching the privileges of this place. He is alleging that if you did not Mr Quinlan did, or if Mr Quinlan did not Mr Kaine did, or if Mr Kaine did not the committee secretary or a Hansard reporter did.

There is the point that you made, Mr Speaker. The Chief Minister cannot stand up in this place and allege that there has been a breach of privilege in a situation in which only those who could have breached the privilege are identifiable and be allowed by you to proceed on that basis. That is a serious allegation.

MR SPEAKER: Of course it is. But the point is that Mr Humphries has not finished his answer yet. He may very well advise me that he is referring the matter to me for consideration.

MR HUMPHRIES: Indeed, Mr Speaker. I think that would be a very appropriate thing to do, and I indicate that I will in fact do so. The fact is that this is a matter of some concern, and I indicate my concern about this process.

There was consultation by the Actew board in the way described by you, Mr Kaine, and the advice you referred to was given. If you feel that it in some way profits you or the community to have that information on the table, then you have obtained that advantage or profit. Again, it is a matter that goes to the capacity of TransACT to deliver services in this community and its capacity to survive. As I have said already once today, if members of this place, for political or other purposes, seek to capitalise on any difficulties TransACT has faced in the recent past, then it paints a very poor picture of their commitment to the public interest.

MR KAINE: I ask a supplementary question. It has been said publicly that the cost of this venture will not exceed $200 million. Chief Minister, just how much more over and above the money that has now been made available does Actew expect to need to complete the joint venture? Is that total sum greater than $200 million or less than $200 million?

MR HUMPHRIES: I was asked that question just a few minutes ago by Mr Stanhope. I have answered Mr Stanhope.

TransACT

MR HARGREAVES: My question is to the Chief Minister. Mr Speaker, in answer to a question from Mr Stanhope a moment ago, the Chief Minister referred to comments made by Mr Budde on ABC radio this morning. The Chief Minister forgot to say what Mr Budde went on to say, which was that the investors needed to have deep pockets. The Chief Minister also did not say what the journalist said on signing off, which was that he would like to see the books. Mr Speaker, I think that a little bit of completion might be the go.

Mr Speaker, in Saturday's *Canberra Times* the Chief Minister was quoted as saying that it was slightly more accurate to say that Actew's $30 million investment in TransACT was made without the disapproval of the government, rather than a straight-out endorsement. In today's paper he is quoted as saying that news of Actew's investment almost certainly would have been made public before October's election.

Can the Chief Minister explain to the Assembly the difference between an endorsement and a lack of disapproval? As one of the two voting shareholders in Actew, does he not agree that it is incumbent upon him to strongly back the actions of the corporation?

MR HUMPHRIES: First of all, let me quote more extensively, if that is what Mr Hargreaves wants, from the statements made by Mr Budde on radio this morning. I did not quote Mr Uhlmann's comments because, with great respect, although Mr Uhlmann is a very good journalist, he is not an expert in telecommunications.

Mr Hargreaves: And you are.

MR HUMPHRIES: No, I am not. I do not purport to be. But I do not come into this place quoting myself or other people who are not experts in this field to prove some point about the telecommunications industry. I have already quoted Mr Budde's comments about it being an absolutely fantastic decision that Actew made. Mr Uhlmann asked:

> Is it economically viable though, of course it's extremely expensive to roll out?

Mr Budde said:

> It is absolutely viable Chris, but unfortunately long-term. There is no short-term return on a broadband investment … It's an enormous success in Canberra, and that unfortunately means that a lot of money needs to be invested to actually get people the boxes that allows them to access the broadband network …
>
> The big telcos have 'lost the plot' … they're investing in the wrong sort of technologies, and therefore they're on the wrong track. Transact is the first one in the world that is on a large scale that is introducing a totally new business model. It's an open model, you allow others to actually provide the services, you don't fight them in court like Telstra and Foxtel are doing … it's a totally new model, and that's very scary for the incumbent telcos, who are all based on monopolies rather than winning customers through competition. So, it's an absolute necessity for the world that Transact get this to work, and all signs are there that they can get it to

> work—it's become a world example of how new telcos are going to function in the future …
>
> There is absolutely a very bright future ahead of us. We see huge amounts of money to be made—the market will triple over this decade nationwide … There is absolutely light at the end of the tunnel, but we do have to give Transact … the full support to actually make it happen. And that's why the decision—

by Actew to increase its investment—

> was so incredibly important, that the shareholders said, okay, we believe in it, we go on, and we fund the organisation properly.

That is the full context of the relevant statements, Mr Speaker.

As to the difference between making the decision and not disapproving of the decision, the ACT cabinet was given advice about problems facing TransACT if it was unable to obtain additional finance, either direct cash or commitments from its shareholders or other sources, to continue to be able to roll out its infrastructure. It was given that advice late in a week. It was given it, from memory, on a Thursday, and on Friday cabinet met to discuss the matter. In fact, cabinet spoke directly with some members of the Actew board about the matter to determine what the position was.

The government was concerned about the amount of information it had before it on which to make a decision in circumstances where Actew was asking the government for some indication of what decision it ought to make, it being the shareholder in TransACT, not the government. The government considered the position and indicated to Actew that it understood the advice that had been given to it, felt concerned that there was not enough information on which to base an alternative judgment, a judgment of its own on the matter, and instead said that the Actew board should exercise its own judgment about whether to proceed to make that further investment in TransACT. The Actew board indeed did make such a decision.

Mr Speaker, that was described earlier by someone in this place, by Mr Kaine, as the government trying to distance itself from the decision to invest in TransACT. It is obvious from my remarks today that the government believes that TransACT is very important and that it is important that investment be made in it to secure its future. That is the government's view. But we also take the view that investment has to be made responsibly and that we need to assess very carefully the weight of evidence about the risk associated for the community of making a further investment.

It is worth bearing in mind a simple point about this. If TransACT had arisen as an opportunity for this community at a time when a Labor government was in office, we have to assume that there would have been, not a 27 per cent shareholding or a 36 per cent shareholding, but a 100 per cent shareholding, because the Labor Party—

Mr Wood: Here we go again; you are speculating.

MR HUMPHRIES: You say that you are not in favour of privatisation. Therefore, presumably, if this is a good thing, you would have invested in it 100 per cent.

Mr Hargreaves: Mr Speaker, I take a point of order. I am not aware of the number of the relevant standing order, but I am sure you are. I go to the issue of relevance and brevity. I made no reference at all to anybody else's position in my question.

Mr Wood: And he cannot speak for the Labor Party.

MR HUMPHRIES: Mr Speaker, it has long been the practice in this place to comment on other parties' policies in the course of answering questions. You did it every time you rose in this place, Mr Wood, as did Mr Berry, so why shouldn't I? Yes, we have taken steps to—

Mr Hargreaves: Mr Speaker, are you going to rule on my point of order?

MR SPEAKER: Yes.

Mr Hargreaves: I did not hear the ruling.

MR SPEAKER: Mr Humphries is well aware of the relevance rule.

Mr Hargreaves: And the brevity one.

MR SPEAKER: Yes.

MR HUMPHRIES: Mr Speaker, the fact is that this community has an important asset in TransACT. I believe that it is deserving of support. This government is also, however, prepared to take steps to limit the liability and the risk associated with TransACT to the ACT taxpayer. That is why we made the decision not to be 100 per cent the owner of TransACT. We could have been a few years ago, but we decided not to do that. That was a responsible decision to take while at the same time being in a position to see TransACT continue to roll out its cabling in this city and to provide the services that it promises to this city.

Mr Speaker, I make these comments in the knowledge that I have been asked by the Finance and Public Administration Committee to make a statement in this place about the position of TransACT, which I have agreed to do. I have also agreed, at the request of the chairman of that committee, not to make the statement until next week. I am a bit confused about the position. Am I to honour my undertaking to Mr Quinlan and refrain from making a comment on this matter until next week or am I to make it today, tomorrow and the day after in dribs and drabs in answer to questions from members of the opposition?

Perhaps the opposition should consider its position. Firstly, do they want me to put all this information on the table today or next week and, secondly and perhaps more fundamentally, are they in favour of TransACT being invested in or not?

MR HARGREAVES: I have a supplementary question. Why was the Chief Minister only almost certain, not absolutely certain, that news of Actew's investment would become public before the election? What possible argument could there be for keeping it secret?

MR HUMPHRIES: It is because Actew will publish its annual report in the next few weeks. It might be a surprise to Mr Hargreaves, but it actually publishes an annual report every year. It comes out regularly every year and it is to be published, I am advised, in the next few weeks. That is why.

Mr Hargreaves: You just did not know. You did not have a clue.

MR HUMPHRIES: Quite the contrary. I am telling you that it is normal practice to publish an annual report about this time. I cannot be absolutely certain that it is going to be before 20 October, but it usually is about this time of year. In fact, my advice today is that it will be published in the next few weeks.

Disability sector

MR WOOD: My question is to Mr Humphries. Since I am seeking some detail, I advised Mr Humphries' office early this morning that I would be asking this question. Mr Humphries, you and I were at a disability sector forum last week where we heard of the problem in that sector of the increased salary bill following the last increase announced last week in the SACS award. Do you yet have an indication of the cost in total to the community sector of that increase, and are you able to indicate ways that the sector can be funded to cover it?

MR HUMPHRIES: Mr Speaker, I thank Mr Wood for the question and for the notice that he would be asking it. I am aware that the SACS award was common ruled in the ACT in February and was issued on 1 June. Of course, community organisations employing people under the award—and there are a large number of them—will be liable to pay salary and penalty rates contained in the award, which are obviously higher than they were before.

I might say that not all employees of community organisations are employed under the SACS award. For example, health professionals and administrative staff may be employed under other awards. But a number of employees, of course, are.

The cost impact on community organisations has been estimated by government officers at between 9 and 15 per cent, depending on the organisation. The full cost can only be known through examination by those organisations of their staffing structures. There will be a cost to agencies that deliver services on the government's behalf and the government is committed to ensuring that services to the community are maintained at an appropriate level.

The SACS impact has been recognised already in a number of areas. For example, in the supported accommodation assistance program administered by my colleague Mr Moore, $1.5 million of combined ACT/Commonwealth money is available to address SACS implications, with the ACT government committing $343,000 in 2000-2001 and $685,000 in 2001-2002.

We are at the moment conducting an audit of SAAP agencies to determine the financial assistance required. The work will be extended to understand the broader impact on other community organisations. Through this process we hope to get an understanding of the impact and then consider the options to address the impact.

I am confident that, in addressing issues which agencies face, we will be able in many cases to negotiate changes in the contract arrangement between the government and the agency concerned. That may not apply to every agency. But I can say that the government is cognisant of the impact on agencies in general and is anxious to provide the means for as many agencies as possible to be able to continue to provide those services.

Mr Speaker, there are, of course, other pressures on agencies, such as increasing insurance premiums, and we are acutely aware of those things as well. We will attempt to work through those issues with the community agencies concerned.

MR WOOD: Mr Speaker, I ask a supplementary question. I thank the Chief Minister for that answer. I did not quite pick up every word so I will carefully read what he said when that is available. I think you said that you would be assisting agencies to cover those costs. Is that correct?

MR HUMPHRIES: There are a number of agencies we will be assisting to cover the costs. Whether that includes every agency, I could not say at this stage. But we are aware of their problems and we are attempting to work through those issues with them. There are discussions which are mainly through Mr Moore's department and/or the areas that he administers. These matters are actively being discussed with a large number of organisations at the present time.

TransACT

MS TUCKER: My question is also to Mr Humphries and is also about TransACT. I am interested to know what other financial assistance is being provided to TransACT by Actew, either directly or through ActewAGL. Can you tell me whether ActewAGL is effectively subsidising TransACT by bringing forward its electricity pole replacement program at its own expense to carry the extra weight of TransACT cables, and can you tell me the amount of this subsidy?

MR HUMPHRIES: I thank Ms Tucker for that question. I am not aware of any in-kind support being provided by ActewAGL to TransACT. I am aware of course that Actew made an initial investment in TransACT by developing the concept and establishing the platform on which it is now being built. That input has been factored into the contribution which Actew has made to the venture. My understanding is that that contribution was not an ongoing one; that there are not any other arrangements.

It would make sense that both Actew and AGL, if they were shareholders in TransACT, might provide TransACT with some special arrangements such as reduced electricity charges, but I could not say that I am aware of that. I will take that part of the question on notice and obtain a fuller answer for Ms Tucker.

MS TUCKER: And also the dollar amount the subsidy would be worth. I have a supplementary question. If I understood you correctly, you said you were given notice on a Thursday that a decision needed to be made by the Actew board. I thought you said you were given a day's notice by the Actew board to make a decision. You had a cabinet meeting on the Friday and you were informed on the Thursday. Did I hear you correctly?

Mr Humphries: Is that the question?

MS TUCKER: No. I am clarifying that.

Mr Humphries: It is almost right but it is not quite right.

MS TUCKER: Thank you. I am assuming that that is close. Apparently, it is not far wrong. My question is: in the view of the ACT government, is this appropriate notice to be given to you by the board of Actew to make a very important decision on behalf of the ACT community and expend public money?

MR HUMPHRIES: In answer to the last part of the question, no, it is not. That in part contributed to the reason the cabinet was reluctant to make a decision, substituting itself for the Actew board, to have Actew invest more money in TransACT.

Let me make it clear that in early May I did speak to members of the Actew board about the need for additional investment in TransACT. They spoke about their need to raise more finance, and they indicated to me that they wanted to do so and that they wanted to have my views on that matter. I indicated that that seemed to be an appropriate thing but that the government at that stage was unconvinced that it needed to put more direct government money into the TransACT venture.

I understood from that meeting that they were going off to speak to shareholders about obtaining additional investments from shareholders, which is ultimately what has happened. At the end of June, when the incident to which I referred in an earlier answer arose, there was advice from Actew, with somewhat greater urgency about it, indicating that a decision about additional finance needed to be made quickly and imminently to deal with what appeared to be an immediate problem with the obtaining of finance. That is the matter we were expected to make a decision about within a short space of time. My recollection is that it was one or two days.

Workers compensation premiums

MR OSBORNE: My question is to the Chief Minister because it is a question for Mr Smyth but he is not here. Minister, several months ago I moved a motion which limited the workers compensation premiums for group training companies to 15 per cent of their wage bill. I am not sure that that motion was passed unanimously, but it was passed. I have been informed recently that the effect of this motion has not yet been implemented and notified in the *Gazette*. Could you clarify this for me? If the change has not yet been implemented, could you give a reason as to why not?

MR HUMPHRIES: Mr Speaker, no, I cannot. I do not have information about that in front of me. I will take that question on notice.

Transgrid

MR CORBELL: My question is also to the minister acting for the Minister for Urban Services. Minister, a report prepared by Transgrid titled *Investigation into easement maintenance in the Canberra area* highlights:

> Environment ACT is not a signatory to this procedure or any formal easement maintenance agreement with Transgrid.

Minister, can you explain how Transgrid was allowed to conduct easement maintenance in Namadgi National Park without any formal maintenance agreement with Environment ACT? What formal consultative requirements were in place, if any, prior to the major damage that occurred in March this year?

MR HUMPHRIES: Mr Speaker, my colleague the chairman of the Planning and Urban Services Committee whispers in my ear that this matter is actually before the urban services committee at the present time.

Mr Corbell: No, it isn't. There is no inquiry under way.

Mr Hird: The matter is there.

MR HUMPHRIES: I will leave it there. The matter can be sorted out between members of the committee, Mr Speaker. I will say that I am not aware of the answer to Mr Corbell's question, and I will take it on notice.

Williamsdale quarry

MR BERRY: My question to the Chief Minister relates to the Williamsdale quarry. Chief Minister, the original approval given for Totalcare to enter a joint venture between Totalcare and Mitchell Mini-Mix and possibly CSR Emoleum was specific. It is now well known that the final joint venture partner was Pavement Salvage Holdings Pty Ltd. When did the Chief Minister give agreement for the joint venture between Totalcare and Pavement Salvage Holdings Pty Ltd, and when will he table the document?

MR HUMPHRIES: Mr Speaker, I do not know that I gave agreement at all. It may have been my predecessor who gave agreement. I will take that on notice and find out for Mr Berry.

Mr Speaker, I return to the importance of Mr Berry being prepared, if he is going to ask these questions, to accept at some point that an answer is going to be a resolution of this matter. Mr Berry has repeatedly asked questions in this place about the Williamsdale quarry. He has made assertions in this place about the quarry, including assertions that I have misled the Assembly on the matter and that the community—

Mr Berry: "I didn't know whether it was me or my predecessor." This is his signature on the document.

MR HUMPHRIES: I did not say that I did not sign; I am not aware that I signed it. The way you asked me the question—

Mr Moore: Gary, I would have signed a hundred letters this morning.

MR HUMPHRIES: Indeed. We all sign many, many letters in this place. I cannot recall the date on which I signed a particular letter. Mr Berry, you think you have gained some great triumph because I cannot remember the date on which I signed a particular letter. That is a trivial triumph that you can gloat over and create a nice press release about.

As you well know, the answer to the question that you are asking is 24 January 2000.

Mr Berry: No, the question I asked was: when did you give agreement to the joint venture between Totalcare and Pavement Salvage Holdings? The original agreement was—

MR SPEAKER: Why are papers being passed back and forth?

Mr Berry: If you will let me finish, Mr Speaker. I am trying to help out. The original agreement, as you will see, Mr Humphries, was between Totalcare and Mitchell Mini-Mix and possibly CSR Emoleum. We know that the agreement was with Pavement Salvage Holdings. When did you give approval for that arrangement to proceed?

MR HUMPHRIES: That being the case, Mr Speaker, my original answer stands. I do not know that I signed the subsequent approval. This is not my approval in respect of that matter. It is in respect of a matter other than the one you are asking me about.

Mr Berry: No it is not. It is the same.

MR HUMPHRIES: No it is not. It is in respect of the joint venture between Mitchell Mini-Mix and possibly CSR Emoleum. You are asking about Pavement Salvage, aren't you?

Mr Berry: Yes, that's right.

MR HUMPHRIES: I am saying that this letter does not relate to that fact. So I cannot answer your question without taking it on notice.

Mr Speaker, I do not know whether there is any point in tabling the letter.

Mr Berry: Table it if you like.

MR HUMPHRIES: You can table it if you want to. Mr Speaker, the fact is—

Mr Berry: Mr Speaker, I seek leave to table that letter.

Leave granted.

Mr Berry: I present the following paper:

> Williamsdale Quarry—Proposed joint venture—Copy of letter from Kate Carnell MLA, Chief Minister and Gary Humphries MLA, Treasurer to Chairman Totalcare Industries Ltd, dated 24 January 2000.

MR HUMPHRIES: Mr Berry has asked me several questions about this matter. You have asserted that I have misled the Assembly about this. You now know that—

Mr Berry: Mr Speaker, I think he said I misled the Assembly about this.

MR HUMPHRIES: No I did not. You should listen, Mr Berry. I said that you asserted that I misled the Assembly. That is what I said. There is a difference, in case you have not noticed.

Mr Speaker, I also want to table a document in regard to legal advice dated 10 August 2001 by Phillip Mitchell, the Government Solicitor, which demonstrates quite categorically, and I quote from his advice:

> In my opinion there has been no failure to comply with sections 16 and 25 of the Territory Owned Corporations Act. The arrangements do not amount to either:
>
> (a) a disposal by Totalcare (or a subsidiary) of any of its main undertakings; or
> (b) a disposal by Totalcare (or a subsidiary) of a significant asset
>
> for the purposes of section 16 of the TOC Act.

Mr Speaker, this, of course, backs up the advice which was provided to Totalcare by Mallesons Stephen Jaques, which was obtained before the joint venture was entered into. That advice made it very clear that this was a perfectly legal step to take.

Mr Speaker, at what point will Mr Berry acknowledge that he has made a mistake and that he has tarred the reputation of not just ministers in the government but also of public servants?

Mr Berry: I have not said anything about public servants.

MR HUMPHRIES: You did not have to say anything. Public servants implemented this policy and, on Mr Berry's argument, must have been involved in breaking the law. You cannot argue that the minister made this decision in isolation and went around stamping documents, preparing instruments and signing things off. There have to be other people involved in this process. In many cases, ministers act through public servants, particularly in a matter such as this. So you cannot say that the minister has broken the law without suggesting at the same time necessarily that other people, particularly public servants, were involved in that process.

Mr Speaker, what we have here is legal advice which demonstrates that Mr Berry is utterly wrong. I table that advice, Mr Speaker. I present the following paper:

> Williamsdale Quarry—Proposed joint venture—Copy of legal opinion, from the Australian Capital Territory Government Solicitor dated 10 August 2001.

Advice has now come from not one but two legal sources. When is Mr Berry going to concede that he has got it wrong? Mr Berry claims that this is another Bruce Stadium. In future, when the Labor Party tries to beat up issues, I will claim this is another Williamsdale quarry—that is, a wild and baseless accusation against government officials in the hope of making electoral gain.

MR BERRY: Mr Speaker, I ask a supplementary question. Why then did the Chief Minister not comply with the section 16 (2) of the Territory Owned Corporations Act, which states:

> A consent may be given—

Mr Moore: That is a legal opinion.

MR BERRY: I am not asking for a legal opinion. I have already got one for free. The subsection states:

> A consent may be given subject to a condition and, where it is so given, the territory owned corporation or subsidiary shall not carry out the activity that the consent refers to until the condition is satisfied.

Namely, that the joint venture should be between Totalcare and Mitchell Mini-Mix and possibly CSR.

MR HUMPHRIES: Mr Speaker, once again Mr Berry is alleging that the law has been broken.

Mr Berry: I am asking you why you did not comply with that provision.

MR HUMPHRIES: You are saying, "Why haven't you stopped beating your wife?" You are implying that the law has been broken. The fact is that it has not. You had better stop making the allegation because it is not true. The legal advice says that it is not true. You are not prepared to acknowledge that fact.

Mr Speaker, this is Mr Berry all over. Backed into a corner, he keeps insisting that black is white and telling people to go away and stop asking him the question. Mr Berry, continuing to assert it does not make black, white. You have alleged the law was broken. I have produced the evidence, not once but twice, that it was not broken and you will not admit that.

What kind of minister is Mr Berry going to make if he has not got the integrity to acknowledge when he is wrong? Isn't this the very attitude and the very same approach that led this territory into the VITAB mess six or seven years ago? That is the very same reason that this territory lost $5 million over the VITAB affair. The community was treated to an unedifying spectacle of Mr Berry denying and blaming other people. By the way, he very much blamed public servants during the VITAB affair. It was they who had made the mistakes, not him.

Mr Speaker, I have not broken the law. Mr Berry, when you are prepared to accept an umpire's decision on this—

Mr Berry: I have.

MR HUMPHRIES: You have not. You obtained your own legal advice by giving the wrong information to your solicitor. That is hardly adequate.

Mr Speaker, I will lay down a challenge to Mr Berry. We will produce a list of the five largest law firms in the ACT. I invite Mr Berry to choose the name of one of those firms to which a brief to give legal advice will be issued. The government will pay for that legal advice. I will put taxpayers' money up if Mr Berry undertakes to accept the verdict that is given by that process. Are you game enough to do that, Mr Berry?

Mr Berry: I have got my advice.

MR HUMPHRIES: That is right—the advice you paid for.

Mr Berry: I never paid anything for it.

MR HUMPHRIES: Well you got exactly what you paid for. You paid nothing; you got nothing.

Mr Berry: Well, you didn't pay for yours either, pal.

MR HUMPHRIES: We certainly did. In both cases it was paid for. The government has paid for both of those legal advices. I challenge Mr Berry: if you want to say people have broken the law then put your money where your mouth is. If you believe it then we will test it with an independent firm of solicitors. If you are going to retreat to the cowards' castle and stay in here and make these claims, that is fine. But if you really believe what you are saying—and I doubt that you do—then put it to the test.

Mr Berry: Mr Speaker, I seek leave to table a legal advising in relation to Williamsdale quarry.

Leave granted.

Mr Berry: I present the following paper:

> Williamsdale Quarry—Proposed Joint Venture—Copy of legal opinion from Gary Robb and Associates, dated 12 July 2001.

Electorate offices

MRS BURKE: My question is to the Chief Minister. Mr Humphries, I draw your attention to the 1998 *Review of the governance of the Australian Capital Territory* which was authored by Professor Philip Pettit. One of the recommendations in that review was to explore the concept of electorate offices. Has this government considered this recommendation, and will it implement it?

MR HUMPHRIES: I thank Mrs Burke for that question. Yes, it is a matter of interest to this government to make sure that we increase accessibility to members of this place by the ACT community. The ACT Legislative Assembly is a body which was born in circumstances where many citizens of this community were unhappy about the fact. It has been the objective of this government to try to build bridges to involve the community and to make the community feel more ownership in the work of the Legislative Assembly.

We have implemented initiatives such as "Meet the minister", we have thrown the budget consultation process open to public scrutiny, and we have engineered the conduct of a number of exercises in finding out what the community thinks. The Artcraft customer feedback research, for example, is a measure to find out what the community feels about the things the government is doing and that the Assembly is doing. We have made those decisions against the background of a high degree of inaccessibility in government inherited from our predecessors.

The fact is that there are some steps that might be taken that are more likely to distance the community from the work of the Legislative Assembly. The cost associated with building electorate offices and staffing them in suburbs of Canberra is a cost which I do not believe is justifiable in the circumstances. Some estimates of that cost are very high. Some of them range up to $1½ million a year, and $3 million in the first year for the cost of setup. If one assumes one has 17 members of the Assembly spread across three electorates with, say, one electorate officer only per member—other places have many more, but let us say only one here—and accommodation of 150 square metres per office, you very quickly reach that kind of cost.

If you were to remodel the entranceway to the Legislative Assembly to provide for more accessibility by this community, which apparently is breaking down the doors to get in here, add another $600,000 for that. Those promises could total in the next calendar year something approaching $3.428 million, according to estimates I have been given.

Mr Speaker, we have heard only in the last few days from national research that the community is interested in issues like health, education and law and order, yet we see some who believe that apparently the big issues are having more perks for members of the Legislative Assembly and having work done on the Legislative Assembly building. I think that indicates a very misguided sense of priorities in the course of administering public policy in this territory.

The fact is that this community needs to prove its accessibility by what it does, not by remodelling the Legislative Assembly building and not by stunts like putting electorate offices out in electorates at public expense and expecting the public to foot that bill for what is a matter of very doubtful public utility.

Little athletics

MR RUGENDYKE: My question is to the sports minister, Mr Stefaniak. Minister, you may have seen television advertisements in recent days about the Little Athletics Association annual registration day being held this Saturday. I have been contacted by the Belwest club who have 230 children who were formerly based at Jamison oval. They were removed from this venue last year due to the insertion of a cricket pitch and were

transferred to Canberra High oval. But the arrangement with Canberra High has not been renewed, and at this point in time the oval is not in a satisfactory state to conduct competition.

As I mentioned, registration day is this weekend, and the Belwest officials would like to be able to tell their kids where their weekly meetings are to be held. Competition is due to start on 22 September, and there is clearly not enough time and the climate is not conducive to replacing turf at this time of year, as the government discovered about 12 months ago at another venue, even if Canberra High were to be utilised.

Can the minister inform the Assembly why Belwest Little Athletics have not been allocated a field, and can he provide a guarantee to the Assembly that the situation will be resolved before the registration day this weekend?

MR STEFANIAK: I note, Mr Rugendyke, that the Belwest Little Athletics are working in with the bureau of sport. Whether they will actually have a field by then, I simply can't say. The bureau will, obviously, do all it can to assist them.

I am aware that Canberra High School oval, as you quite correctly say, is probably not in a good state for athletics yet. I understand that it will be getting an upgrade which will take about four weeks before it is up to scratch for athletics and other sports. As to when that is occurring, you are probably right: it is not happening now because it is winter.

Another possibility—and it might be a good long-term possibility—which I note has been discussed with the Belwest Little Athletics Club is for Cook oval to be used. The only problem with that is, I think, the running track would be only about 300 metres, but that mightn't be a huge problem for little athletics. That, indeed, is one of our low maintenance ovals which we inherited from the previous Labor government. It is one of two low maintenance ovals that the bureau will be bringing back to full maintenance.

So that might be quite a good long-term solution if they don't want to continue at Canberra High. But my understanding is that there is no drama with them continuing at the Canberra High School oval but that the oval simply does have to be resurfaced, and that will take four weeks.

MR RUGENDYKE: I understand that the government is waiting to base its decision on a possible funding arrangement with a licensed club. That doesn't have a start or completion date for the work on the oval. Why is it the case that the government is relying on private funding rather than simply allocating the government facility to Belwest?

MR STEFANIAK: You might be confusing it with Jamison oval which Wests Rugby Union Club is very keen to take over, although I think the little athletics use that as well as the outside oval at Canberra High which, as I have mentioned earlier, will take some four weeks to get up to scratch. My understanding is that contracts for Wests to take over Jamison oval are being negotiated and as part and parcel of that Belwest Little Athletics will continue to use it. They probably have some arrangement with the Western Districts Rugby Union Club.

Indeed, you are quite right, about a cricket pitch. The bureau might have put in a cricket pitch either last year or the year before at Jamison enclosed oval, as opposed to the outside oval—the two football fields—which will need to be resurfaced.

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

Visiting medical officer

MR MOORE: Mr Speaker, on 9 August 2001, I was asked a question by Mr Wood with regard to Dr Yeaman, a urologist. I provided a short answer and said that I would get some more information. My answer is as follows: an arbitration hearing has been held under the terms of Dr Yeaman's contract as a visiting medical officer at the Canberra Hospital and completed. The arbitrator did not clear Dr Yeaman of any wrongdoing. Rather, he confirmed the finding of the hospital that there had been serious misconduct by Dr Yeaman warranting a penalty of suspension. The arbitrator found, however, that the suspension should only be for six months, not for the remainder of Dr Yeaman's contract, effectively a 12-month suspension, which was the original penalty decided upon by the hospital.

As to the matter of compensation for Dr Yeaman, the hospital has received a claim for compensation from Dr Yeaman. This is a new and separate claim from the arbitration. As to the supplementary question Mr Wood asked concerning whether Dr Yeaman has been offered his job back, the answer is that he was not an employee, but a visiting medical officer. His contract, rather than his job, has expired and the hospital has not and will not negotiate a new contract with Dr Yeaman.

Little athletics

MR STEFANIAK: Further to Mr Rugendyke's question, I understand that work on the Canberra High School oval will start on 2 September, which will be after the last football game on 1 September.

Centrelink information on student absences

MR STEFANIAK: I took parts of questions on notice in relation to Centrelink information, one from Mr Berry on 8 August and the other from Mr Hargreaves on 9 August. I understand that they have been provided with the answers in writing. I table the answers and seek leave to have the answers incorporated in *Hansard*.

Leave granted.

The answers read as follows:

DEPARTMENT OF EDUCATION AND COMMUNITY SERVICES

Questions Taken on Notice - 8 and 9 August 2001

Centrelink Information on Student Absences

Question

MR BERRY

Can the Minister tell the Assembly whether the information on student absences has been passed on to Centrelink without informing students, parents or even, originally, college welfarq officers? Can he confirm that the department was warned at a meeting in June that there were major flaws in the information it was passing on? Why did the department ignore those warnings?

Answer

MR STEFANIAK

No information on student absences was passed to Centrelink without first consulting colleges and high schools and, in particular, college student welfare officers; nor did the department ignore warnings that the information to be passed to Centrelink contained major flaws.

A new reporting system was introduced at the beginning of the 2001 school year. Colleges were progressively involved from December 2000 onwards. A compatibility test of the new system was carried out with Centrelink in March 2001 (at which time no student data was passed to Centrelink). An internal review of the data to be provided was then carried out. The internal review included seeking advice from colleges and schools.

As a result of the review, revised procedures were introduced in June 2001. Data using the revised processes .were then forwarded to Centrelink using the new formulae.

Most colleges have advised their students/school community of the need to report attendance details to Centrelink through newsletters/assemblies and /or individual counselling. Action has been taken to ensure that tKis information is provided to the school community for high schools and any college that has not yet done so.

Currently, the Ministerial Advisory Council on Government Schooling is reviewing attendance monitoring processes in schools to better support students to complete their education. I expect the report to be completed shortly. The issue of the most accurate way of reporting attendance at college is being examined as part of this work, and I am advised that we may be able to improve the processes of monitoring and supporting student attendance as well as reporting to Centrelink.

Question

MR HARGREAVES

In relation to Centrelink information on student absences (partially answered satisfactorily): Why the ACT is one of only three jurisdictions, ... , which has adopted the practice.

Answer

MR STEFANIAK

South Australia, Tasmania, Queensland, Western Australia and the ACT, as well as all,38 universiqesund most TAFEs report the whole student cohort data electronically. Victoria, New South Wales and the Northern Territory provide hard copy information only on Centrelink clients because, as I understand it, those states and territory do not have central student data bases capable of transferring the data.

By providing whole cohort data, the privacy of Centrelink clients is protected. Centrelink destroys data on non-Centrelink clients once the data on their clients has been extracted.

Supplementary Question

MR HARGREAVES

When were colleges informed of the information to be passed to Centrelink. He stated that the schools were advised months after the information was first provided and that when they protested they were ignored.

Answer

MR STEFANIAK

Colleges were not initially involved in the preliminary legal and preparatory stage as this was between Centrelink, ACT Government Solicitor and the department.

Some colleges were involved from December 2000. All colleges were progressively involved from May 2001 when the technical methodologies were being developed.

Before the first cohort data was provided to Centrelink in late June 2001, all colleges had discussed the methodologies used and had input into the revised algorithms used for their college. Following this process extracts were then forwarded to Centrelink.

Personal explanations

MR BERRY: Mr Speaker, I want to make a personal explanation pursuant to standing order 46.

MR SPEAKER: Please proceed.

MR BERRY: During question time I raised an issue in relation to a letter signed by the Chief Minister about the Williamsdale quarry which the Chief Minister did not seem to remember. The letter was tabled on 19 June in relation to a question on the same subject. Mr Humphries tried to draw some connection between alleged unlawful behaviour at Williamsdale quarry and the events surrounding the VITAB affair and me. There were never any allegations of unlawfulness around the VITAB affair and I was cleared on two occasions by inquiries established under the Inquiries Act. Mr Humphries cannot say that for himself.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Speaker, I also wish to make a personal explanation under standing order 46.

MR SPEAKER: You may proceed.

MR HUMPHRIES: Firstly, I never asserted that Mr Berry broke the law, even though he has asserted, by what he has just said, that I have, again.

Mr Moore: Yet again.

MR HUMPHRIES: Yet again. Mr Speaker, I have reached the point where, in light of the continuing of this allegation, I think that it is quite improper under standing orders to allege that a member has broken the law, particularly when the member has actually produced clear legal advice that that has not occurred. I ask, therefore, for Mr Berry to withdraw the allegation.

Mr Berry: I am happy to look at the *Hansard*, but—

MR SPEAKER: Standing order 55 says that all imputations of improper motives and all personal reflections on members shall be considered highly disorderly.

Mr Berry: But reflections on the government are not.

MR SPEAKER: I do not know that you reflected on the government. I think that you reflected on the Chief Minister.

MR HUMPHRIES: You said that I broke the law.

Mr Berry: When did I say that?

MR HUMPHRIES: You have said it repeatedly.

MR SPEAKER: A withdrawal has been asked for.

Mr Berry: Yes, but something has to have been made, first of all, Mr Speaker. I am happy to look at the *Hansard* and, if I have made any imputations that Mr Humphries is an unlawful character, I will withdraw them; but I am going to have a look at the *Hansard* first.

MR HUMPHRIES: Mr Speaker, at the end of his remarks under standing order 46 he also said, "I was cleared of any illegality—

Mr Berry: No, I did not say that. Hang on, I have been Gary-ed again. I said that I have been cleared by two inquiries, which is something that you cannot say about yourself.

MR HUMPHRIES: Mr Speaker, those words imply that there was something which—

Mr Berry: They don't imply anything.

MR SPEAKER: Come on, Mr Berry! We have a great deal of work to do here over the next six sitting days.

Mr Berry: I do not want to say anything more that might lead Mr Humphries to think that his character has been impugned.

MR SPEAKER: Then just withdraw and let us get on with the business. We are acting like children.

Mr Berry: I've got nothing to withdraw.

MR HUMPHRIES: Mr Speaker, I have to insist on a withdrawal.

Mr Berry: Tell me what you want me to withdraw.

MR HUMPHRIES: The allegation has been quite clear, and I ask that it be withdrawn.

MR SPEAKER: Would you mind withdrawing. Look, you said it yourself just now.

Mr Berry: What?

MR SPEAKER: That you had been cleared by two inquiries.

Mr Berry: That's true.

MR SPEAKER: Which was more than the Chief Minister had.

Mr Berry: That's right.

MR SPEAKER: There is an implication there. If you did not mean it, withdraw it.

Mr Berry: No, they are both statements of fact. Mr Speaker, what can I do? They are statements of fact.

MR SPEAKER: Withdraw, and we can get on with the business before the house.

Mr Berry: Withdraw what?

MR SPEAKER: The implication that the Chief Minister objects to.

Mr Berry: Mr Speaker, if Mr Humphries thinks that he has been impugned, I am happy to withdraw it.

MR SPEAKER: Thank you.

Papers

Mr Speaker presented the following papers:

> Legislative Assembly (Broadcasting of Proceedings) Act—Pursuant to section 8—Authority to broadcast proceedings concerning:
>
> The public hearings of the Standing Committee on Planning and Urban Services in relation to its inquiries into:
>
> > Draft variation 174 to the Territory Plan – Hungarian Australian Club Site and Community Facility Land at Section 124 Blocks 2, 3 14 and 15 Narrabundah. (on 14 and 17 August 2001) dated 14 August 2001
> >
> > Scarring of parts of Brindabella/Namadgi National Parks (on 17 August 2001) dated 14 August 2001.
> >
> > Lower Molonglo River Corridor (on 24 August 2001) dated 14 August 2001.

Mr Moore presented the following papers:

> Children and Young People Act—pursuant to section 245—Review of Therapeutic Protection Order Provision by RPR Consulting, dated July 2001 together with the Government Response to the review.
>
> Land Planning and Environment Act pursuant to section 216A—Schedules of Leases Granted, Lease Variations and Change of Use Charges for the period April to June 2001.
>
> Land (Planning and Environment) Act pursuant to Section 229A—Notice and Statement relating to the revocation of development application No 20011012.

Therapeutic protection orders
Statement by minister

MR MOORE (Minister for Health, Housing and Community Services): I ask for leave to make a brief statement about the review of the therapeutic protection order provision by RPR Consulting and the government response to the review.

Leave granted.

MR MOORE: In particular, I draw Ms Tucker's attention to this matter because I indicated to her in a committee hearing that I would make the report available to her. The matter went through cabinet only last night and I am now tabling the report in the Assembly. In fact, Mr Speaker, I may be misleading there; it may have gone through cabinet before that.

Mr Speaker, the Children and Young People Act, which commenced on 10 May 2000, reformed the law relating to children and young people. Included in this new legislation is a provision for therapeutic protection of children and young people who are considered by the Children's Court Magistrate at risk of behaviour which is likely to cause physical

harm to themselves or another person. It is a highly intrusive intervention and for this reason was included in the legislation.

Under the terms of the act, section 245 required me to review the first 12 months of operation in relation to therapeutic protection, and I have now tabled a copy of the review. The purpose of the review was to determine whether therapeutic protection was being provided in appropriate cases and in appropriate ways to evaluate the effectiveness of therapeutic protection orders. On 15 June 2001, the Legislative Assembly was informed of the terms of reference of the review. Therapeutic protection orders are part of the act, division 5, sections 232 to 245. They are highly intrusive orders which entitle the chief executive of the Department of Education and Community Services to confine a young person in order to provide a particular treatment or a therapy.

Under the act, the chief executive of the Department of Education and Community Services may take certain action when providing therapeutic protection for a child or young person. The action includes restricting exit from a place, using reasonable force, personal searches, close or constant supervision and restriction on contact. Although no therapeutic protection order has been made in relation to a young person, there have been a number of cases where a therapeutic protection order was considered or was likely to be considered.

RPR Consulting was contracted by the Department of Education and Community Services to undertake the review. The review follows considerable changes that have occurred since 1998 in the arrangements for service delivery to families and young people in out-of-home care. The review took place against the background of the Clark report of 1998 into substitute care, which resulted in significant reform of the sector. This included the outsourcing of foster care to non-government agencies and the introduction of the looking after children system of guided practice across the sector.

The government agrees with the five recommendations made by the review. The recommendations are in relation to adolescent mental health beds, improved coordination of monitoring, review of the proposed ISCG at the completion of six months, individual support packages, and a broader review of young people with intensive support needs. Mr Speaker, the issue of adolescent mental health beds will be considered in the broader review of intensive youth support. It is agreed that improved coordination and monitoring of cases should be achieved through the establishment of the intensive support coordination group, which is the ISCG to which I referred earlier, as suggested by the review.

An initial meeting of the coordination group has been held. The group includes key decision makers and service coordinators from the care, health and justice systems. I believe that reviewing the functions and outcomes of the proposed consultation group over six months seems premature in view of the small numbers and the complexity of the children and young people involved. It would be more reasonable to review after a period of 12 months. Individual contracting of care in consultation with other service providers has been a feature of the substitute care service in the past 12 months. The department is keen to extend the use of these more flexible arrangements.

The government recognises the increasingly complex problems of these young people and the subsequent demands placed on the service system. A tender is currently out for a wider review into services and case management responses to young people in need of intensive support. The review is to be undertaken in consultation with key stakeholders to improve the provision of services to these young people. I commend the report to the Assembly.

Schedule of lease variations and change of use charges
Statement by minister

MR MOORE (Minister for Health, Housing and Community Services): Mr Speaker, I ask for leave to make a statement on behalf of the Minister for Urban Services about the schedule of lease variations and change of use charges for the period April to June 2001.

Leave granted.

MR MOORE: Section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining the details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land. The schedule I have tabled covers leases granted for the period 1 April 2001 to 30 June 2001. I have also tabled two other schedules relating to variations approved and change of use charges for the same period. All applications to vary crown leases are available for public inspection at Mr Smyth's department's shopfront at Dame Pattie Menzies House, 16 Challis Street, Dickson.

Papers

Mr Moore presented the following papers:

> Subordinate Laws Act, pursuant to section 6—
> Domestic Animals Act—Determination of Fees—Instrument No 212 of 2001 (No 32, 9 August 2001)
>
> Health Professions Boards (Procedures) Act and Dentists Act—Appointment of members of the Dental Board—instruments No 216-219 (No 33, 16 August 2001)
>
> Health Professions Boards (Procedures) Act and Chiropractors and Osteopath Act—Appointment of a member to the Chiropractors and Osteopaths Board—Instrument No 220 of 2001 (No 33, 16 August 2001)
>
> Health Professions Boards (Procedures) Act, Medical Practitioners Act and Medical Act—Appointment of a Member of the Medical Board—Instrument No 221 of 2001 (No 33, 16 August 2001)
>
> Health Professions Boards (Procedures) Act and Optometrists Act—Appointment of Members to the Optometrists Board—Instruments No 222 and 225 of 2001 (No 33, 16 August 2001)

Health Professions Boards (Procedures) Act and Physiotherapists Act—Appointments to the Physiotherapists Board—Instruments 226 - 230 of 2001 (No 33, 16 August 2001)

Health Professions Boards (Procedures) Act and Pharmacy Act—Appointments to the Pharmacy Board—Instruments No 231 – 234 of 2001 (No 33, 16 August 2001)

Health Professions Boards (Procedures) Act and Veterinary Surgeons Act—Appointment to the Veterinary Surgeons Board—Instruments No 235 - 237 of 2001 (No 33, 16 August 2001)

Legal Aid Act—Appointment of the President of the Legal Aid Commission (ACT)—Instrument No 208 of 2001 (No 32, 9 August 2001)

Liquor Act—Liquor Regulations Amendment—Subordinate law No 27 of 2001 (No 33, 16 August 2001)

Public Place Names Act—Determination of street nomenclature (Flemington Road)—Instrument No 215 of 2001 (No 33, 16 August 2001)

Road Transport (General) Act—Declaration that the road transport legislation does not apply to certain roads and road related areas—Instrument No 238 of 2001 (S59, 17 August 2001)

Road Transport (Taxi Services) Regulations 2000—Approval of Taxi Network Accreditation Standards—Instrument No 244 of 2001 (S60, 20 August 2001)

Stadiums Authority Act—Declaration of asset of Territory under section 38—Instrument No 209 of 2001 (No 32, 9 August 2001)

Justice and Community Safety—Standing Committee
Scrutiny Report No 12 of 2001 and statement

MR HARGREAVES: I ask for leave to present Scrutiny Report No 12 and to make a brief statement.

Leave granted.

MR HARGREAVES: 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 12 of 2001, dated August 2001.

This report contains the committee's comments on 14 bills and 116 subordinate laws. I would like to comment on a couple of parts of that to draw members' attention to it because it is a reasonably significant, in-depth report.

Firstly, the report comments on the Cooperatives Bill and makes significant adverse comment. It talks about the inadequacy of the explanatory memoranda of both the 2000 bill and the 2001 bill. Over the last three years the inadequacy of explanatory memoranda have been a reasonably recurrent theme. We point that out so that ministers can advise the officers compiling these things to lift their game a little.

Subclause 419 (2) imposes a mandatory civil penalty, which is something the committee felt was worth mentioning. This is where an officer of a cooperative accepts money in connection with a transaction of a cooperative, and what the subclause does is take away discretion from the court. It also addresses the burden of proof but, again, the explanatory memorandum provides no justification for the reversal of the onus of proof.

I turn now to the Food Bill. There were many problems in that, and I understand the government's response has picked up most of them, so I won't go on with that. But it just shows the value of the scrutiny process.

There were some issues of concern in the Rehabilitation of Offenders (Interim) Bill. The intrusion into the function of the sentencing court is one, and there were many problems with parole orders and in the practicalities of the board procedures. Again, there was no justification in the explanatory memorandum for retrospectivity.

At this point I would like to acknowledge the work that Celia Harsdorf does in conjunction with Mr Peter Bayne, the legal adviser, on the subordinate legislation. How she stays awake doing it, I am blessed if I know, Mr Speaker. But she does and does a brilliant job. All credit to her and those who trained her. A number of problems cropped up with subordinate legislation, and really these things should never occur. I think it has to do with sloppiness rather than anything else. For example, there was no indication in a lot of them of whether the subordinate legislation is disallowable. There are inaccurate gazettal notices, missing explanatory memoranda and missing attachments.

I wanted to make a comment about regulatory impact statements. I am sure Mr Moore is interested because he was right behind this with a knife at its back. On 21 June the Subordinate Laws (Amendment) Act came into force, through no impetus of the minister. We passed it in the December, and the minister quite happily sat there and let the six months dribble by until it became law. It is now law. We have noticed that, since 21 June, no regulatory impact statements have been provided, and I am sure there must have been a piece of subordinate legislation which had a major impact on certain parts of the community.

The committee considered this and the dangers inherent in the subsuming of the Subordinate Laws (Amendment) Act 2000 into the Legislation Act 2001. There is a requirement for people to examine the subordinate legislation for the possibility of regulatory impact statements, but it is quite possible that the people responsible for doing that will not recognise that they have this obligation. I do not think it is in the forefront of everybody's mind.

I understand that Mr Moore actually did something along the lines of a regulatory impact statement in the context of the Food Bill. If I am right, I would like to acknowledge that the author of such transparency is the first cab off the rank and needs to be applauded for that. If he did not, that is bad luck too.

It is strongly recommended to the Chief Minister that he advise ministers to instruct their departments to be aware of the contents of the parts of the Legislation Act dealing with regulatory impact statements; part of the law is that ministers will provide explanations

where they give an exemption under the act. I am absolutely certain that people have not complied with the act, due to omission rather than anything else. So I would strongly urge each minister, and, hopefully, the Chief Minister, to instruct the departments to comply with this legislation so that we do not have any nonsense in the future.

I commend the report to the Assembly.

Referendum Bill 2001

Debate resumed.

MR CORBELL (3.54): This is a very significant debate, where people are presenting strongly felt views from both sides of the debate. Mr Stanhope made clear in his speech earlier today the Labor Party's view on the appropriateness of using a referendum in relation to the questions the government has proposed in the bill today. To my mind, it is a complete abrogation of the government's responsibility to provide leadership on the question of drug use and drug abuse in our society that they have chosen not to set a clear agenda for reform, which people in Canberra are looking for. In marked contrast to the government's approach, I and the other Labor members are able to present to the Canberra community a very clear and detailed policy on legal and illegal drugs.

The Australian Labor Party has worked through these issues; the Australian Labor Party has had the discussion amongst its membership. Unlike the Chief Minister, who seems completely unable to manage that discussion within his own party and therefore resorts to a referendum as a way out, the Australian Labor Party has conducted those hard debates. In fact, months and months of discussion amongst a broad range of members in our party have brought forward an unambiguous policy statement on legal and illegal drugs. As Mr Moore points out, we were not so closed on this issue that we were not prepared to hear from our political opponents. Indeed, a forum organised by the Labor Party invited Mr Moore to come and speak to it.

The Labor Party has been genuinely engaged in this issue, and the Labor Party has a strong platform position, which I am very pleased to reiterate today. The Labor Party has set out what its objectives are in relation to legal and illegal drugs, and we have set out our aims. Our aims are to reduce the harm caused by alcohol and other drugs, to reduce the use of illicit drugs in the ACT, to reduce the supply and trafficking of illicit drugs in the ACT, to develop evidence-based strategies for addressing the misuse of alcohol and other drugs, to ensure the provision of quality services to address the drug problem and to implement appropriate legislative changes to enable the provision of the broadest possible range of evidence-based treatment options.

Those are the six strategies that outline the principles and objectives that will guide a Labor government. And it is not as though they have been worked out at the last moment. These strategies have been on the books and have been approved by the rank-and-file vote of ALP members in this place and the rank-and-file members of the party.

That is more than Mr Humphries can say. It strikes me as an enormous irony that the Liberal Party suggests again and again that the Labor Party has no policy when I would challenge them to provide anywhere near as detailed a policy document as the ACT ALP branch platform and rules, which is updated yearly and available publicly—something

the Liberal Party never does and never has done. So it strikes me as an enormous irony for the Liberal Party to claim that the ALP has no policy and no direction on the issue of drugs in our community.

In relation to criminal law and justice, Labor has set out a number of strategies. For the first, in relation to drug law reform, the party has set out six key directions. Firstly, it will continue to support the decriminalisation of possession and use of cannabis for personal purposes, a reform debated extensively in previous assemblies and one which Labor is committed to.

Secondly, Labor will support a comprehensive evaluation of our legislative approach to cannabis, so we will see exactly how that decriminalisation process is operating in practice and what, if anything, needs to be done to refine that approach.

Thirdly, Labor will support the investigation of proposals for the medicinal use of cannabis, with a view to assessing its possible value to sufferers of various chronic or terminal illnesses. This is an issue that we as a legislature should be responding to in a positive way—the fact that people are using drugs for particular purposes, which is currently outside the law. It is happening, and we need to be responsive to that. Labor's policy does just that.

The fourth objective of the drug law reform is to support the establishment of an evidence-based heroin trial as a national project, ensuring the inclusion of needs-based support services and rigorous evaluation processes. Mr Humphries, in saying that we wanted it to be a national project and therefore wanted all states and territories to agree, tried to claim that the Labor Party was trying to cop out on the issue of an evidence-based heroin trial.

Mr Moore: Actually, it was me who raised that issue.

MR CORBELL: Okay, it was Mr Moore who raised that issue. My apologies to Mr Humphries. I want to refute Mr Moore's argument, and the reason I want to do that is that, if Mr Moore had spoken to anyone in the Labor Party about what that statement actually meant, he would know that it recognises that a heroin trial can only proceed with the support of the Commonwealth and must therefore be a national project. Mr Moore should know that the heroin trial can only proceed with the support of the Commonwealth. Indeed, I am sure he does know that. Labor recognises that it can only proceed with the support of the Commonwealth, as well.

Again, it is a great irony for the Chief Minister to accuse Labor of not being strong on this issue, when it is only Labor locally and Labor federally who are arguing for the capacity for states and territories to implement a heroin trial. It is Labor federally who have said they are prepared to give the consent necessary to allow the importation of heroin for those purposes. It was not the Liberals—not Mr Howard, not even Mr Costello—it was the Labor Party. We think that that is a reasonable approach and one that marks the Labor Party as being progressive on these issues, a party that is taking a considered and sensible view of how the issues need to be progressed.

Fifth on the Labor Party's agenda of drug law reform is the issue of supporting the active involvement of ACT researchers in evidence-based trials of medically supervised injecting rooms elsewhere in Australia, particularly in New South Wales. It is a matter of regret that we are not in a position to have implemented our own supervised injecting room in Canberra—we all understand what occurred last year. But we do know that New South Wales is proceeding with such a trial, and it is absolutely appropriate that we in the ACT take steps to assess and analyse the success or otherwise of that trial and do so in an evidence-based manner.

That is exactly what our platform commits Labor to—and that is just on drug law reform. There are also responses on sentencing, prison and custodial arrangements, the school curriculum, community education, public health promotion, preventative medicine, alcohol and other drug services, addressing the needs of key target groups and, finally, mental health. It is a comprehensive policy approach to the issue of drug use and abuse in our community.

We do not need a referendum to deal with these issues; the Labor Party has worked them through. The Labor Party is prepared to stand on its policy, go to the community and say, "This is our approach, and we ask you to make your judgments about it." In contrast, the proposition made today by the Attorney-General and the government demonstrates the complete absence of any policy direction. It is one in which the government seems to abrogate its responsibility to both give leadership and seek out the solutions the community is looking for to these important and difficult questions.

What would a referendum prove? It would prove nothing. It would achieve, on its own, nothing. We have heard from other members that they are not prepared to be bound by the results of such a referendum or, should we say, plebiscite. Exactly what are we seeking to achieve here? We are not seeking to achieve policy reform; we are not seeking to implement legislative change; we are not even seeking to improve service delivery. What we are doing if we support the government's proposal today is seeking to avoid our responsibilities as legislators and elected representatives of the Canberra community. That is not an approach that Labor believes is appropriate, and it is the clear reason why we will not be supporting the government's bill today.

MS TUCKER (4.06): This proposition to conduct the referendum on two contentious drug policy initiatives is badly flawed because it undermines the notion of democracy that has seen us elected. In the public eye, however, the debate today is as much about the trial of a legal supply of heroin and supervised drug injecting rooms as it is about conducting a referendum. It provides me with an opportunity to put the Greens' view of drug law reform and public health policy on the record once again, and I will do so briefly before returning to the key arguments.

The ACT Greens have long supported the trial of both the controlled provision of heroin and supervised injecting rooms. We hold that view because it seems clear to us that the prohibition of illicit drugs creates substantially more problems for society in crime prevention, human despair, ill health, misery, community safety and cohesion than a regulated and health-based approach ever would.

Of course, drugs that are illicit—and so directly linked with crime—and have been linked in the popular imagination with subversion and the fairly common intersection of youth, risk taking and intoxication, imbue in people a kind of moral panic. But this debate is not about arguing for the legalisation of all drugs. I remind members that the division society has made between legal and illegal drugs reflects the relationship between business and governments, particularly the United States government, over the past 100 years. The division between legal and illegal drugs is in fact a choice or decision of convenience.

It is not a given that cannabis, or even heroin, is implicitly bad, or that tobacco and alcohol, while possibly unhealthy, are in essence okay. The drug laws, as they exist, are a product of political interests and expediency—national and international. So to argue for the prohibition of illicit drugs from a moral standpoint is facile, and to argue about the social costs of drug use, without including alcohol, tobacco, prescription drugs and substance abuse more generally, is inept.

We do not need a yes/no referendum on two highly contentious initiatives. We need to draw on community expertise with a substance abuse task force—in the same way as the government and ACTCOSS poverty task force explored poverty last year—to develop a framework to address the underlying issues. We need to look at the problems that drug use and abuse reflect in their social and psychological context. It is stupid and unfair to assume that drug dependence is merely a weakness of character or that everyone who is dependent on drugs, in this case on illicit drugs, should simply learn to say no. Those of us responsible for law reform and for social policy need to understand the complexities of drug use in our society rather better than that.

The Attorney-General, in his presentation speech, spoke extensively about the criminal consequences of drug dependence and the health costs of injecting drug use and appeared to make a fairly persuasive case for the ACT to trial new strategies. He went on to say:

> Whether you support these initiatives or oppose them … our collective efforts to do something about the drug problem in Canberra have stalled.

He then said that "support for either measure will provide a blueprint for the way forward". So we imagine he will be supporting these initiatives in the referendum debate. More confusing, however, is the statement that "lack of support for either measure" in this referendum would send a clear signal that the community would not have the measures pursued.

The Attorney-General, in all his wisdom as the first law officer of the ACT, has only addressed the positive option. He has argued, it appears, that these two initiatives would be a positive step forward in the way we deal with drug problems in the ACT. But if the referendum, delivered to the Canberra people over the next few weeks, results in a no vote, he has no idea of what other options we might pursue. Yet I read in the *Canberra Times* today that he will campaign against the initiatives which his introductory speech commends.

I would have thought that Mr Stefaniak, at least, would feel some shame about this extraordinarily duplicitous approach. Part of the problem is that it suits people to address the crisis end of the drugs issue rather than look at substance abuse and social

dysfunction in a more comprehensive manner. It is sexier to look at the crisis end, but we should be careful not to duck any complex understanding of the factors at play that create what we like to characterise as drug problems. It might be life problems or it might be problems to do with education, violence, social exclusion, unemployment and poverty that give rise in some people to drug abuse.

"Let's not be soft on drugs," people say. "Look at Switzerland, let's look at Portugal, look at Sweden. The Swedes are tough on drugs and they have less addiction." Sweden is not so tough on drugs as might appear from the figures and statements the Internet offers. There is an incidence of drug abuse in Sweden, and it is through the health system in Sweden that harm minimisation is practised, despite the rhetoric to the contrary.

I would like to put to all those hard-line anti-drug moralists that there are a number of other factors that you ought to address in a debate on drug policy. They include employment, education, housing and health care. If you want to address the problems of drugs, you need to look at the treatment of people without work and living on pensions and benefits, sole parents, people living with illness, people who are damaged by other damaged members of their families and people who are damaged by a society that disowns them because of some perceived difference. It is not good enough to simply narrow your focus to the use and abuse of drugs.

In places like Sweden it is not their drugs policy that makes a difference to people's lives. It is how the Swedish people—and so the Swedish government—support those most in need in their community. Over 51 per cent of the Swedish GDP is returned to the Swedish people through taxation—in social security, universal health care, public housing and employment support. It is at the top of the OECD scale. Australia is near the bottom, with the United States, with less than a third of GDP returning through taxation. Yet the Liberal Party in this country peddles the fiction that we are all too highly taxed.

The Liberal Party has an appalling, ideologically driven, pitiless record of scapegoating the vulnerable—from the aged to the homeless, from the unemployed to the socially excluded. They are the same values that drive the ACT Liberals. it appears. In regard to substance abuse, however, the Independent anti-drugs campaigners in this Assembly and their Liberal Party cohorts ought to wise up to the fact that it is the wider set of values shaping our society that lead to the problems we face.

Mr Humphries referred to this as a moral issue. I was interested to hear what was said at the Conference of Swiss Bishops in 1997, when there was a proposal to have a referendum in Switzerland, which they opposed. I quote what the Swiss bishops said—men of faith, as we have in this place.

> The Christian ethic defined by the example of Jesus places human dignity at the centre of discourse. It follows that Jesus' words are addressed equally to drug users who are so often marginalised: "each time you do this for one of the least of my brothers you do it for me."

A report on the conference reads:

> Worried about the fate of addicts and their families, similarly uneasy about the serious consequences of alcoholism, the abuse of prescription drugs and tobacco, the bishops recalled that the Christian ethic urges and invites the social reintegration of

> marginalised people, to give them back a life in the community and to avoid at all costs their isolation.

Having a supervised injecting place and free prescription heroin will keep people alive so that this ultimate goal of reintegration can be pursued. Leadership is a precious thing and, clearly, this government would rather not have to offer it. It is doing everything it can to avoid this issue. The Liberals would rather not face the real problems in this country and, indeed, across the world. They stand, as Pontius Pilate, again and again washing their hands of any responsibility and now hide under the cover of small "d" democracy.

There is no point in this referendum. It is not about issues of the Constitution or about how we should do government or about the rights and entitlements of all citizens. It is not something that reaches beyond the responsibilities of elected members, the Chief Minister and the ACT government and so ought to be dealt with through a democratic vote. Governments are elected to govern.

Mr Humphries himself seemed to look askance at the notion of asking the community to put us in government and trust us to make the right decision. But I thought that was what Gary Humphries has said during every election campaign: "Put us in the Assembly to govern. Trust us; we know what is in the best interests of the community."

This referendum is simply a test of public support for the trial of two policy initiatives the government does not want to make a decision on. While proponents argue that the people of Canberra are sophisticated in their understanding of the issue, such a referendum forces the decisions to be made at too simplistic a level. It is not the people of Canberra who are simplistic; it is the framing of this debate. That is the point.

The argument put by the Chief Minister and the Attorney-General is that we face problems of drug use and abuse and a yes vote to the referendum would provide the confirmation of new strategies. Interestingly, that does not appear to be the basis on which the Liberal Party first proposed this referendum; rather it was because people wanted to have drugs "out of their faces". The idea apparently came from some market research or polling conducted by the Liberal Party and the family policy group. A follow-up poll for *City News* included the terms "shooting galleries" and "free heroin" despite protestations to the contrary, which will have corrupted the process to some extent already. One can only imagine what questions the Liberal Party asked and how pointed they were.

So we have a party of government campaigning at cross purposes. The ministers say they will accept the outcomes; it appears the rest of the Liberal Party may not. We also have the extraordinary situation where the Independents are likely to support the referendum—as a kind of public consultation on initiatives they remain committed to opposing. It is not to assist them in forming a view; it is because they believe it is to their electoral advantage, perhaps. They would like the question to be put so they can argue the point.

If the Referendum Bill had received support today—it does not look as though it has—we could have looked forward to an intense debate on heroin use. The bill would have ensured that the yes and no cases, which would undoubtedly have emerged with some

controversy themselves, would have been delivered to Canberra people no more than a few weeks out from the election.

Mr Kaine: Two.

MS TUCKER: Mr Kaine says two weeks. That is correct.

Doubtless, expert and interest groups from both sides would have added more to the debate in a situation where it would have been impossible to shift the focus of the debate away from heroin to substance abuse more generally or away from drugs to other policies altogether and where it would have been possible for any candidate to run hard on drug law reform or to run an anti-drugs agenda and avoid every other issue. This referendum would have worked directly against the small "d" democracy which the Chief Minister, amongst others, claims to hold dear.

It is not a question of experts versus the people; it is a question of allowing the electorate to vote on all the issues rather than simply on one. Rather than running to the electorate for direction, the small "d" democrats among us would do well to find the courage to go to the people of Canberra with all their policies—all of them—and be judged on their record. It is as simple as that. The key to this debate is not drugs policy; it is our responsibility as parliamentarians; it is about democracy.

This Assembly is Australia's smallest parliament, and we have possibly the widest range of powers and responsibilities. We are unlikely to have majority government in the territory. Every contribution by every member and every vote by every crossbench member can affect outcomes—in justice, health, services and entitlements; in government accountability and transparency; in the partnerships between government and business, government and community and government and the workforce; and in planning a vision for the future, the kind of Canberra we want. Almost every vote is important.

Furthermore, the ACT electoral system puts the focus on people rather than party. We ask the voters of Canberra to judge us on what we have done individually, and we ask them to vote for us on where we stand across this range of issues into the future. Surely it is cowardly to go out of our way to pick and choose the issues we want to be judged on. Surely we have to be judged on our stance on all issues—such as school funding, domestic violence, business support, a victims of crime scheme and community development—rather than our stance on drug law or health policy alone.

And if we had nothing to say on some issues of real importance, if we argued for some things but then voted for others, would the voters, the media and our opponents not have the right to challenge us on those subjects? Surely we want the electorate to choose wisely, to be able to select the representatives they want. Isn't that what a representative democracy is really about? *(Extension of time granted.)*

If this referendum had succeeded and the heat and complexity of the heroin trial debate had occupied the bulk of the media's space over the election campaign, then democratic integrity would have been sacrificed to electoral advantage.

The Greens will not be supporting the bill.

MR BERRY (4.22): Mr Deputy Speaker, there are many reasons to oppose the Referendum Bill, which is now before the house. The introduction of this legislation has been a rather cynical move by the government to position itself in the context of the election. It has not been the result of any genuinely held position on the issue of heroin in the community. Indeed, Mr Humphries' behaviour in relation to this matter clearly demonstrates that. Of course, although Mr Humphries is now being won over to the idea of an injecting room, at one stage he voted against the cabinet decision which supported legislation to bring about this particular facility.

Mr Deputy Speaker, I do not think anybody in the community now believes that there is any sign of genuineness from this government about dealing with this issue. It is merely a case of the Liberals positioning themselves in the lead-up to the election. They will appear rubbery to the electorate when it comes to the question of dealing with the heroin problem in the community. On the one hand they will look as though they want to do something about it and, on the other hand, they will look as though they want to adopt a tough line. That is not the position which this Assembly will endorse, and they will not get away with it.

The fact of the matter is that, as we go towards 20 October, the parties in this place and the Independents will have to demonstrate to those people who are interested exactly where they stand in relation to the provision of illicit drugs, particularly heroin, an injecting room and a heroin trial.

I do not have any difficulty with Labor's position. I think it is a good position. We have said that we would support a nationally endorsed heroin trial. I think we all know what the result of such a trial will be. It will mean that heroin users can be shown to have a better quality of life as a result of prescription heroin. There is no doubt that a heroin trial will reveal that heroin has a use in rehabilitation or maintenance programs which might apply to people dependent on the drug. This issue has been around for so long that we have almost reached the point of talking about taking the extra step of providing heroin on prescription to people in the community who are in programs.

The current situation is a long way from what applied when this Assembly first kicked off in 1989. I recall a discussion with the then head of health over the issue of drug dependence and how we dealt with it in the ACT, and in particular the provision of methadone. The dangers of long-term methadone use were explained to me. In those days, regrettably, the system in the ACT provided for only 80 places in the methadone program. People in the program were routinely urine tested to see if they were using heroin. If they were, threats were made to take them off the program. If they transgressed a certain number of times, they would be taken off the program.

This resulted in somebody, frustrated by not being able to get on the methadone program, ending up in my office on the 5th floor of what is now the administration building across the road, with a hypodermic needle full of blood hanging out of their arm, making all sorts of threats about what they would do if something was not done about access to methadone. Mr Deputy Speaker, police, counsellors and all sorts of people were involved in that process. It becomes starkly clear that something different needs to be done when you are faced with that sort of situation.

I remember saying naively at the time to one of my health advisers, "Well, given that we are giving them this methadone, which is not a very nice drug in itself, why don't we just make heroin available, at least at some stage of the process?" The answer was simply: "Because we cannot," and that was the situation. Subsequently, the methadone program was expanded a number of times and more people were able to get involved in the program either on a maintenance basis or on the basis of rehabilitation, and the rest is history.

We moved to the provision of methadone in the private sector, which I opposed at the time. I think it is going pretty well, but I still maintain that there were some aspects of the public sector management of methadone which might have been more helpful to people dependent on heroin. Nevertheless, that is history and we have moved on.

I think I was the first person to raise at a national forum the issue of a heroin trial. From memory, this matter was raised at a ministerial conference in Sydney in about late 1991. I can still remember the wide eyes around the room at the suggestion of such a step. At that time I said, "It's time we started discussing this because sooner or later we are going to have to change the way we deal with this issue."

Here we are 11 years or so down the track and not a lot has changed, except for community attitudes. I think community attitudes have changed a lot. There is a wide recognition that we have got to do something different to what we are doing now, otherwise we will be in effect heading nowhere.

This brings me back to the referendum. Well, what will it prove? It will not prove a thing because it is a plebiscite. We have heard all the discussion about how and when people may or may not take notice of a plebiscite. I have heard the Liberals say that they will abide by the plebiscite, whatever the result. Before the last election I heard them say something about Actew not being on the agenda, so I do not have any confidence that they would ever stick to that sort of promise. It is too difficult for them to go to the electorate and tell them exactly what they stand for on this issue.

Mr Deputy Speaker, I have long been an opponent of willy-nilly referenda to sort out problems that politicians find difficult to deal with. I have always been of the view that people ought to declare themselves clearly and openly, subject themselves to the scrutiny of the community at an election, and then, hopefully, after the election move to implement whatever it is they say they stand for. That is what I have always tried to do, and I think that is quite applicable in this case. I welcome Mr Moore's continuing commitment to that approach.

Mr Deputy Speaker, there is a bit of an attraction in having a referendum on this issue because I think it would travel alright. But I have this overriding concern about a principle which I just cannot breach. I flirted publicly with the idea of introducing a referendum on abortion. I knew that such a subject would travel well in a referendum. But I cannot breach the principle that I hold in respect of referenda, no matter how attractive it might be to do so.

Abortion is a difficult issue for some of us to deal with because of the varying positions that are held. I have three issues in my mind. One is whether the people support the clinic in the ACT. It is a question of whether people will stand up for the decriminalisation of

abortion in the territory. I do. I am prepared to stand up for it, and others will as well. It is a matter of whether people are prepared to repeal those silly laws that purport to require women to look at pictures of foetuses when they are considering an abortion. I think that should be repealed and I and others are prepared to stand up for what we believe. I think if it went to a referendum it would most certainly be swept away by public opinion.

Even though the idea of a referendum sounds attractive, there is a principle here that we cannot breach. I am pleased that the numbers look as though they are stacking up against this idea of decision by referendum. Do your job, do the job that you are paid for. You are paid by the community, at fairly significant expense—much more than what many of them earn—to do a job which at the last election you promised to do, or you should have promised to do. You will get the chance at the next election to promise to do a job. If you have got a hidden agenda, you do not deserve to get elected. There is no reason for people to have hidden agendas, and many agendas in relation to this issue were not on the table at the last election.

But public opinion has moved on. I think there will be more people starting to question in the lead-up to the election what candidates are going to do in respect of the issue of heroin and the issue of injecting rooms. I said that we just about know what we are going to get out of a heroin trial. But whatever we choose to do in relation to the provision of heroin, it is important that we have some sort of academic study of the relationship between all facets of the community which are affected by the illicit heroin trade.

As I said earlier, we are almost past the point of talking about a trial—we are at the point where we might as well make the decision to provide heroin on prescription. But either way, you have got to have a pilot program or a trial to work out an appropriate way forward. This has not happened in this country. However, it has happened in other countries and most of the answers are with them.

It is time to move on. We have got to get to a position where we can do something more in the community than is happening now, with people trading on fear about heroin to prevent anything from happening. I think we have got to get past that somehow. I do not think a referendum is the way to do this. We need more people in favour of our position to be elected. But none of this will matter much if Mr Howard or a federal government maintain their position.

This brings me to the point that I was Gary-ed by Mr Humphries. Mr Humphries said that at the last election we walked away from this important issue. No, we did not walk away from it. We maintained our policy; it stayed in place. But I indicated that, because John Howard had decided that the situation was not going to change, we were not prepared to thrash around about it any more, that there was little point in us belting ourselves to death here in the ACT over the issue.

At the time there were some strong opinions about our position, as if we had abandoned something. I understood the strongly held views in the community but I was not prepared to keep banging my head against John Howard's brick wall. We just did not seem to be getting anywhere. Hopefully that will change shortly.

An injecting room would assist many people. I do not think it would stop all the unfortunate deaths that occur from heroin overdoses in the community but it would assist in the rehabilitation process and quality of life issues, and it would save some lives, which would be of significant benefit to the territory. For those reasons, I think we have to move forward on this issue.

I think the ACT has missed the boat to a certain degree. There are other things going on in other places that we will have to look at before we make up our minds. Because evidence may be received at some future time, you cannot put in place a referendum process—and Mr Stanhope has said this—that commits you to a certain outcome forever.

For those reasons, I am happy to rise in this chamber and oppose the referendum. I have indicated my commitment to Labor policy and I repeat that we need to do something about the continuing curse of heroin out there in the community.

MR OSBORNE (4.37): Obviously this bill is not going to get up. I have calmed down over lunch, so I will not respond to some of the things that were said by other members in this place, Mr Kaine included. What was said can go through to the keeper. On second thoughts, I will say something about what Mr Kaine said. He said I was a very moral man and then bagged me for the next minute, and I see that he is chuckling about that.

Mr Deputy Speaker, obviously the legislation was not put up by me. However, I did think that there was some merit in taking this issue to the people so as to seek the community view and option. I was quite happy to take a serious issue like this to the community so that we as an Assembly could vote on the community option. I was intrigued by Ms Tucker's indignation at that suggestion and her outright refusal to accept that the community should have a say. She attacked Mr Humphries. Yet I believe that next week we are going to be forced to vote on the community option on the Gungahlin Driveway. I understand that Ms Tucker made some—

Mr Moore: It's part of the community, not the full community.

MR OSBORNE: That is right. Ms Tucker also made—

Mr Rugendyke: Only when it suits her.

MR OSBORNE: "Only when it suits her," Mr Rugendyke interjects. That is worthy of inclusion in *Hansard*, so I will take that interjection. Ms Tucker also made reference to the Catholic bishops. I always find it intriguing how non-Christians seem to be the experts on how Christians should live. It always intrigues me that members of this place—Mr Moore is chuckling over there—

Mr Moore: I have studied Christianity.

MR OSBORNE: The only problem with Mr Moore is that he always rolls out the same old bits of scripture. He only knows a couple.

Mr Deputy Speaker, I will not argue the pros and cons of the different issues. We have all done that at various times over the last six years. However, I am disappointed that this issue will not be taken up in a referendum.

Mr Deputy Speaker, this will be an election issue. On 1 January next year the legislation for the shooting gallery will kick into place and we, as an Assembly, will be forced to decide what to do. I think the people of the ACT need to be aware that whoever they vote for will be making a decision—it will probably be one of the first decisions we have to face after we elect Mr Kaine as Chief Minister.

Mr Kaine: With your support.

MR OSBORNE: With my support, of course. So it is a live issue; it is a current issue.

I must admit to being somewhat unsure about whether we need to have a referendum on the heroin trial, because it is pretty clear that the current Prime Minister has no intention of implementing such a trial. Not that that is a bad thing, Mr Deputy Speaker. I think if we were going to be serious, perhaps we should have looked at just the issue of a shooting gallery. Last year we had dramas with the budget, and the decision was put off till after the election. So obviously the incoming government and incoming members of this place will be forced to make a decision.

It is pretty clear that most of the people of the ACT are aware of the issues. Mr Moore has been arguing his point of view for a number of years. I remember that the first issue I had to face when I came into this place was the pilot heroin trial task force report. I am unsure what the result would have been if a referendum had been held. I feel quite confident that my side would have won. Mr Moore is quite confident that his side would have won. But a lot of that would have depended, I suppose, on how the different campaigns were run.

I think it is very clear from some of the stories in the *Canberra Times* this morning how particular newspapers and journalists would have reported it, and that would have had an impact on the outcome. So I am not overly concerned that this bill will not be passed but I think it would have been a worthwhile referendum to have had.

This is an issue that all of us will have to continue to face should we be back here after October. I do not imagine that Mr Moore will give up the fight when he finally leaves this place. He has spoken about this Assembly needing fewer conservatives. I know what we need less of, and thankfully that is what is going to happen after October.

Mr Deputy Speaker, this is a difficult issue. As I said earlier, I have been looking at the drug problem for a number of years. In my previous life I worked at a police station where drugs were a difficult and constant issue. As I have said before, this problem impacts on the families or friends of most people.

I would like to think that at some stage we can reach some consensus. The thing that I admire most about Sweden is that, regardless of their model, it is pretty clear that they have taken a united approach. I think we all need to take a deep breath and consider how we can move forward so that we can try to find some help for drug dependent people.

There have been some benefits from some of the policies of the last few years. I do not think you could argue that the needle exchange program has not been effective in some areas. Quite clearly it has. As I said earlier, I do not want to speak on the different issues.

I am sure we could all stand here for hours and argue about what we see to be the pluses and minuses and people would have different views.

Obviously the bill will fail to be passed today. This is going to be an election issue and, as I have said, it will be the first thing that we will be forced to face when we come back after the election. Hopefully I and most other members will be here after October to discuss this issue, and I look forward to continuing the debate with them.

MR STEFANIAK (Minister for Education and Attorney-General) (4.47): In closing the debate, I thank members for their comments. This has been a lengthy debate and, from my understanding of the numbers, it appears that the bill will go down. I think that is most unfortunate.

I will address a few of the points that have been made. Some members opposite were saying things like the Chief Minister needs to show leadership and that this legislation is an abrogation of responsibility. I think that is clearly a nonsense. In fact, only recently the Chief Minister stood up to the Prime Minister on this very issue, and that certainly shows considerable leadership.

I am amazed that a number of members opposite, including Ms Tucker, talked about this being a matter for the government and not the community. Whatever happened to consultation, whatever happened to seeking the views of the community? What better way would there be to deal with an issue as difficult as this than to ask the community by way of a referendum what they want and to indicate that the result would be binding on the government?

Obviously the Labor Party supports both a shooting gallery and a supervised heroin trial. The Liberal Party has made it quite clear that, were this matter to go to referendum, we would be bound, regardless of what our personal thoughts might be, to accept what the community told us. Even if the community voted 50.1 per cent in favour of, say, both questions and 49.99 per cent were against them, we would implement the wishes of the majority. That is why you have a referendum.

Mr Corbell read at length from Labor Party policy, and I found it quite interesting. In fact, he should send me a copy. I would be fascinated to see what the Labor Party policies are.

Mr Moore: They are on the web.

MR STEFANIAK: I am not very good with computers, Michael, but I might be able to get that off the web. But it was a fascinating dissertation on Labor Party policy. He neglected to say, though, that it has been my party's policy since 1999 that we not have a shooting gallery or a heroin trial until such time as the matter is put to the people by referendum, and that is exactly what we are trying to do.

The Liberal Party makes absolutely no bones about the fact that we are a very broad church. We have differing views on this topic and that is painfully obvious to all and sundry. The former Chief Minister and the current Urban Services Minister felt so strongly about the shooting gallery that they voted with the Labor Party and the rest of us

did not. I think my views on these topics are well known, as are the views of other members of the Liberal Party.

If this bill is passed, candidates from our party will be, in the lead-up to the referendum, supporting both sides and possibly combinations of the two questions. I think that is a healthy thing. The Canberra community is certainly well and truly capable of making an informed decision on these questions—an informed decision that we would accept.

For example, Mr Deputy Speaker, I think my views on the shooting gallery are well known. I do not think it is a sensible idea at all. However, if the majority of Canberra citizens wanted us to do that I would certainly adhere to their views, as would indeed my colleagues. I think Mrs Burke is very supportive of the shooting gallery and also a heroin trial. But if the community said no to both of those questions, she would adhere to the community view and we would look at other ways of tackling the problem.

This is a worldwide problem and some countries are dealing with it better than others. Like Mr Osborne and Mr Rugendyke, I am quite impressed by the way the Swedes approach the problem. The Swedes have an interesting system of government and a lot of the things they do are very trendy. But on this issue they have not gone down the track of being excessively liberal. They have a very comprehensive package to deal with this very real social issue, and they appear to be tackling the evils of drug use in a very sensible, effective and holistic way. That is certainly something that I think we should explore. I think there is a lot more we can do and should do. Yes, it would probably cost more money but I think we need to see what we can do to rehabilitate offenders and users.

Late in the debate Mr Osborne raised a very good point about the shooting gallery legislation—I think only six people, including me, voted against it—kicking back in at the beginning of the next Assembly. I think people have forgotten that this will happen. If we had a referendum, the people of Canberra would have a chance to vote and we would be able to resolve these very important issues. If they wanted to have the safe injecting room, a shooting gallery, call it what you like, and a heroin trial, they could say yes.

Mr Deputy Speaker, probably a number of people in this place think they can pick what the electorate will do, and maybe that is the reason in some instances for their support or otherwise of this legislation. I think it would be very hard to pick what the people of Canberra would do. In fact, before we knew that this legislation would go down, I bet my colleague Mr Hird a couple of schooners that the people of Canberra would say no to the shooting gallery but yes to a heroin trial. Mr Hird did not agree—he thought it would be two noes. We will never know, we will never find out. I will not have the pleasure of buying him a couple of schooners or he will not have the pleasure of doing that for me, because we will simply never know.

It is not a sign of weakness and it is not an indication of the government abrogating responsibility to hold a referendum on crucially important questions like this—questions that potentially in many ways divide the community. There are many different views. Some people are passionately against shooting galleries and heroin trials, and other people passionately believe that these things should be trialled. There are very strong views one way or the other.

Mr Deputy Speaker, it is very appropriate that these questions be put to the community by way of a referendum. It is not a question of clouding other election issues. There will be a lot of election issues and I think the people of Canberra are smart enough to vote on this as a separate issue. I suppose drugs will be just one other election issue but I think this is of such fundamental importance in our community that it deserves to be put to the people of Canberra so as to give to whoever is here in government after October a clear signal of what the citizens of Canberra want. That is not going to happen and I think that is very sad for democracy in the ACT.

Unfortunately it seems that this bill will be defeated, and I think that is very sad. I think members have put their point of view and I do not think they are likely to change the way they intend to vote. If I thought they would, I would urge them to think again. Let this go to the people; let the people decide; let the people indicate to this Assembly what they want to see happen with this crucially important social issue. Unfortunately, that does not look likely to occur.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the negative.

At 5.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and was negatived.

Protection Orders Bill 2001

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

> That this bill be agreed to in principle.

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

Protection Orders (Consequential Amendments) Bill 2001

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

> That this bill be agreed to in principle.

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

Food Bill 2001

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

> That this bill be agreed to in principle.

MR WOOD (5.01): Mr Speaker, I guess that everyone in this chamber at some stage has suffered food poisoning. There would be very few in the community, certainly of mature age, who have not at some stage been troubled by that, whether from cooking in your own home or cooking outside at a food stall, or the finest restaurant that you can find, or even an airline. You can get food poisoning anywhere. It's really quite common. It can be serious. It can be fatal. Mr Moore, in his speech, indicated that something like 650 cases of food poisoning were reported in the last year. One would expect that many more cases have not been reported.

In the last, what, five years I have had a mild case of food poisoning. Once I am pretty sure it came from a food stall at the markets at the showground. Another time I know it came from orange juice served by an airline, because some comment was made about it and I responded. So it can happen at any time, and that bears testimony to the importance of this legislation.

This is major legislation. It is the culmination here of a very long process around Australia. I was informed in a briefing that locally some 2,000 businesses serving food were involved as part of that process of discussion. So it has been thoroughly examined by the national council of ministers and by people all around Australia. These are, again, national laws. We are getting, it seems, more and more of these laws, and I thank the minister for offering me and others the courtesy of commenting on the legislation. I did not take up his offer, but I did peruse the material that came through. Perhaps it is an indication of my confidence in the processes that I did not make a comment at the time.

Following a new food agreement by COAG in November 2000, states and territories are adopting these measures that we see here today. We see measures like the model food provisions, the national food safety standards which will replace our existing food hygiene regulations, and a new system for national food regulation.

The 2000 agreement required jurisdictions not to create their own food standards other than as a temporary measure. I understand that as a consequence of that the argument is that our present egg labelling requirements are not to be included in this bill. It was presented to me in a briefing that they could not be included in this bill. I know that Mr Corbell, on behalf of the Labor Party, will have something to say about that. I expect that Ms Tucker also will have something to say, and I see that she has circulated some amendments.

The details of the protection measures, those very extensive details, are contained in food safety standards that provide one set of standards for all of Australia. They are now incorporated into the foods standard code and, with the passage of this legislation, the code will be operative in the ACT.

This legislation does allow community charity groups, for example, to continue. That is a question I asked because we track around and go to fetes and the like, and if there is a limited number of occasions for a group in a year they are able to operate under this legislation. I certainly hope that the requirements on those bodies are still policed, because I think that is where I got into strife on one occasion.

This legislation does have some labelling requirements, but it does not cover what I hope we get to in the future, and that is labelling that details the level of various elements in the food. Most of us are now beginning to look to see how much fat, for example, is incorporated into any product that we buy, and I think that is a very important measure. That is something that will be considered in other circumstances. It is not covered in this legislation.

I notice that the scrutiny of bills committee had some comment. I took very careful note of that, and I read what the minister had to say in response. The scrutiny committee, properly, is very protective of the rights of the citizens of Canberra and we pay close attention to what it says, but I noted the minister's response and I accept it. I am only too happy for that committee to be on the alert because I think we can see a tendency, as time goes by, to be a bit cavalier with the rights that we all have. We are certainly not reducing the rules and regulations by which this society operates. They increase in considerable measure every year, and we are part of that process. But that is required for our protection, and therefore it is worthy of our support, as is this bill. The Labor Party will be supporting this bill.

MS TUCKER (5.08): This bill is basically a re-write of the existing Food Act and it stems from a COAG agreement on food regulation signed last year. I understand that for some years there has been a national food standards code which sets down the compositional and labelling standards for foods manufactured and sold in Australia. The COAG agreement last year extended intergovernmental cooperation on food issues and committed governments to a new system of consistent national food regulations. This covers the adoption of national food safety standards, and a legislative framework covering such issues as definitions, enforcement, offences and emergency powers.

It is obviously in the public interest that the food we buy is safe to eat, both in terms of its nutritional quality and also in being free of biological or other contamination. It is also in the public interest that food be adequately labelled so that consumers can clearly know what they are buying.

Given that there is the free movement of food products across state borders, I can understand the desire for consistent national regulation of the way that food is produced and handled. This bill focuses on the regulatory framework for this, and I have no objections to the bill on this basis. However, this does not diminish my concerns about some of the detail within the national food standards, for example, on the approval and

labelling of genetically modified food. I will continue to work on improving the national food standards in areas of concern to environmentalists and consumers.

As I have said before in this place in other debates over national agreements, I am greatly concerned that national agreements can lead to a lowest common denominator approach to standard setting. I believe that a state or territory that wants to set high standards should be allowed to do so and not be dragged back by other states.

The case in point here is the use of battery cages for the keeping of hens. Members would know that there has been a long-running campaign by animal welfare groups to ban the use of battery cages in egg production because of its inherent cruelty to hens. This Assembly passed legislation in 1997 to phase out the use of battery cages in the ACT and to require the labelling of egg packaging to indicate the conditions under which the hens that produced the eggs were kept.

Unfortunately, the ban on the sale of eggs from battery cage hens in the ACT has not yet been able to be implemented because it required the agreement of the other states under the Commonwealth Mutual Recognition Act. Other states would not agree to this, despite a Productivity Commission study of the legislation that concluded that the ban would make an improvement to hen welfare and that alternative policy options would not be likely to achieve the objectives of the ban in a cost-effective way. I think it is appalling that other states have been able to hold back a legitimate initiative of the ACT even though most of them have no economic connection to the egg industry here.

It appears that the same thing is happening in this bill with the labelling of eggs. Egg labelling was implemented in the ACT about two years ago. It only applies to eggs produced in the ACT, predominantly the Bartter egg farm at Parkwood, because the Mutual Recognition Act stops us from forcing eggs imported from other states to be labelled.

The Productivity Commission report concluded that egg labelling was a much more straightforward issue than the outright ban on battery cage eggs. It concluded that the provision of this information could benefit a significant proportion of consumers, with little or no addition to producers' costs. It found that many consumers have a poor understanding of the animal welfare implications of different egg production systems. This certainly is not helped by the producers of battery cage eggs labelling their egg cartons with such slogans as "farm fresh" or "happy hens", which gives a very misleading picture of the battery cage system, which is in fact a very miserable sight.

In the battery cage system hens live in cages of four to five birds, with each bird having an area of less than an A4 page in which to live out its wretched life. The hens' lives are totally geared around the production of eggs and they are unable to undertake normal hen behaviour such as scratching the ground, preening, stretching, nesting or perching. Often their feathers get rubbed off and their feet get deformed from being surrounded by wire mesh. Their beaks have to be trimmed soon after birth to stop them from pecking other birds in the cramped conditions.

The legal basis of egg labelling are provisions inserted into the Food Act in 1997, and the details of the labelling are set out in a regulation under the act. However, these provisions have disappeared from the Food Bill because we have been told by the

minister that they are inconsistent with the national food standards. He has also told us that other health ministers believe that egg labelling is an animal welfare issue and should not be dealt with in food laws. I do not believe that this means that we should just abandon the legitimate decision by this Assembly in 1997 to introduce egg labelling.

As compensation for the wiping out of the egg labelling, the minister has said that the ministerial council responsible for agricultural issues, ARMCANZ, has recently endorsed a voluntary national standard for egg labelling which may eventually be mandated on industry after a new national egg production assurance program. This may be fine, but, knowing how long national agreements can take to be developed and implemented, and knowing the resistance of the egg industry to the exposure of the cruelty of the battery cage system, the implementation of a mandatory national egg labelling scheme may take some time, measured in years, I would think.

We should keep our egg labelling laws in place until we have a better national system. We should not be abandoning egg labelling now in the hope that a national scheme will come along in the future. I will be moving amendments in the detail stage to restore the existing egg labelling provisions.

MR CORBELL (5.14): Mr Wood has outlined Labor's general approach in relation to this legislation. I want to make a couple of points in relation to the egg labelling issue, which is an issue of some importance to the Labor Party, and obviously to other members in this place.

The Labor Party believes that there has been a legitimate decision of this Assembly to proceed with a unique but, I would argue, progressive form of labelling for eggs produced in the ACT. It is an approach which, with Labor Party support, and as a result of Labor's support, passed through this Assembly, as Ms Tucker highlighted, in 1997.

In the passage of that law back in 1997 the Labor Party made a number of significant amendments to that law to overcome the difficulties that were presented with the original proposal put forward by the then Greens member, Ms Horodony. The proposal which Labor had inserted into the legislation dealt with the issue of mutual recognition—that is, the agreement of all states and territories for a unique labelling system. The Labor Party argued that it was clearly necessary, if we were to proceed with a ban on battery cage production in the ACT, to have the agreement of all the states and territories under the Mutual Recognition Act and the mutual recognition agreements which bound all states, territories and the Commonwealth. That provision was a very important one. Amendments that allowed for labelling for battery, aviary, barn and free range eggs produced in the ACT were also passed at that time.

The Labor Party was therefore concerned to see these egg labelling provisions deleted from the Food Bill as presented by the minister. What was perhaps of more concern was not that they had been deleted from the bill, but that in fact they had not been incorporated into any other form of legislation in the ACT. They basically had just been left to drop out. The law was going to drop out of existence. That, from our point of view, was not an appropriate course of action.

The Labor Party recognises, as my colleague Mr Wood has pointed out, that there are national agreements in relation to the new Food Bill that govern exactly what can and cannot be included in that bill. These include the intergovernmental agreement on food regulation, and agreement on the food standard codes, and the model 2 provisions. These are all important provisions. They are an important step in achieving uniform national food safety laws. The Labor Party understands and respects the need to achieve that important policy outcome across Australia, so we accept that there is no ground within the existing Food Bill for amendments to be made to the bill to provide for the continued egg labelling laws that exist in our current Food Act.

The Labor Party has explored a number of options in this regard. As late as yesterday Labor was prepared to support the proposal that has just been put forward by Ms Tucker when she foreshadowed amendments to the Food Bill. However, since that time I have received further advice as to the appropriateness of that course of action. Now, unfortunately, Labor is not in a position to support those amendments because they still, according to the advice I have received, are contrary to the national agreement on uniformity of legislation that is required in relation to this bill.

So I foreshadow, Mr Speaker, that tomorrow I will be tabling a stand-alone piece of legislation which guarantees the continued existence of our existing egg labelling laws. On balance, we have decided that that is the most appropriate course of action. That being the case, the Labor Party will not be supporting the amendments that have been foreshadowed by Ms Tucker in the debate today.

MR MOORE (Minister for Health, Housing and Community Services) (5.19), in reply: Thank you, members, for your contributions. A huge amount of work has been done on this legislation, both here in the ACT and also around Australia. It has been a matter of discussion amongst ministers, I think in every food ministers council that I have attended, and they have included New Zealand. We have had advice from New Zealand, although that country has not participated in this piece of legislation.

Mr Speaker, it is very important legislation because, by getting a national agreement on food, as was recognised in November 2000 by heads of government, we can proceed to deal with issues that arise in terms of food poisoning and the protection of people's health in a coordinated way.

Earlier this year the non-core component of the model food provision underwent an ACT specific regulation impact assessment. I think that is what Mr Hargreaves was referring to earlier. That assessment involved industry consultation and a comprehensive cost benefit analysis. Over 2000 ACT food businesses were contacted to encourage their participation in the consultative process. There was general consensus from the food businesses that uniform food regulations were essential for customer confidence, for professional opportunities and business investment. Those consulted were also supportive of the adoption of the national food safety standards which are intended to replace the ACT's existing food and hygiene regulations.

Mr Speaker, that is one small example of the extraordinary effort that has gone into this legislation. The national standards were approved by health ministers last year, and they deliver uniformity with respect to food hygiene and practices in food premises.

I would like to take the unusual step, Mr Speaker, of thanking specific public servants and staff here for what they have done. Rather than naming them, because I know that often embarrasses members of my staff and the department, I would like to extend my very warm thankyou to the people who have put so much effort into bringing this legislation to this point because I think it is extraordinarily important.

Mr Speaker, there is the issue raised by Mr Wood and, in detail, by Mr Corbell about the national standards for egg labelling. Egg labelling is something we have taken seriously. The matter was raised at senior officials level. Senior officials made it very clear that they did not approve of the ACT egg labelling coming into our Food Act. I raised it personally with ministers, and they also made it very clear they thought it was an inappropriate way to deal with animal welfare issues.

I am very pleased that Mr Corbell has come up with an appropriate way, a lateral solution, to get the outcome that we are talking about. I do not think we have seen a copy of his bill yet, but conceptually, raising the issues he has and putting them in a free-standing piece of legislation is something that the government would find acceptable, because what we are seeking to do is to make sure that we have a continuation of a system retaining the status quo for the labelling of eggs. Not only is it not consistent with our own national agreements, but it is also entirely inappropriate that it be part of the food legislation. It is about an animal welfare issue, not about the quality or possible contamination or safety of food.

I was pleased when Mr Corbell came and spoke to me and said that he had this lateral solution. Like so many lateral solutions, it is relatively simple and straightforward and an easy way through. I would like to congratulate him and indicate in-principle support from the government for his concept. I look forward to seeing his bill tabled tomorrow and will see how we go.

There was something else that was happening that is also very important. I wrote to members about this. Agriculture ministers, with great encouragement from my colleague Mr Smyth, have been looking for a national standard for egg labelling, and they agreed earlier this year that they would go to a national standard for egg labelling. Not only have they got a national standard for egg labelling; it is supported by the producers. There is cooperation. It is the sort of approach that Ms Tucker and the Greens say we should use on many other issues. We should, where possible, get people to agree. We should listen to them, come to compromises, and find out what is the most effective way to deal with an issue.

The national standards for egg labelling cover the definition of the egg production system; the description of the method of production, caged, barn laid or free range; the placement, print style, font size on labels; and the egg product type, which I think is free, vegetarian or organic eggs. So, Mr Speaker, granted, under the way we had dealt with this food legislation, there was going to be a period in which there was no egg labelling, but, more importantly, there was going to be a national scheme. Mr Corbell has come up with a sensible scheme of free-standing legislation to fill the gap in time, but the reality is that this government had not let go the notion of egg labelling. Ms Horodony ought to be very proud because it is as a result of some of her work that we have moved towards a national scheme.

The national scheme, granted, does not use the word battery when it comes to cage legislation. Having visited a number of egg production schemes, there were old ones that were appropriately described as battery cages, but there are new cage systems that do not fit into that category. They would be best described as cage systems.

Mr Speaker, it seems to me that we are in a position to be able to proceed. I wrote to members earlier today on issues raised by the scrutiny of bills committee and distributed our response to each of those.

The Food Bill is not a one-off measure. It is part of a comprehensive package of national reforms which seek to unify Australia's approach to food production. The Food Bill supports the Department of Health, Housing and Community Care in efforts to ensure the safe supply of food to the ACT community without unnecessarily impacting on business. It supports the departments extensive ongoing educational role, not only for food businesses and their employees but also for the wider community.

The Food Bill replaces outdated and unnecessary legislation with modern, nationally consistent, best practice legislation. It represents a new era in food regulation. A food business operating, say, at Federation Square in Gungahlin will be required to meet the same food standards as one operating on Fraser Island in Queensland. Mr Speaker, I commend the bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle

Detail stage

Bill, by leave, taken as a whole.

MS TUCKER (5.28): I move the amendment circulated in my name *[see schedule 1 at page 3109]*.

My amendment merely transfers all the existing provisions in the Food Act relating to hens and eggs that were put there by the 1997 Greens' private members bill and places them in the Animal Welfare Act. This also includes the relevant food regulation issued by the health minister in 1999 which sets out the criteria for determining which labelling expression to use, that is, battery, cage, barn, aviary or free range. This regulation has been made a schedule to the Animal Welfare Act. There is also a consequential amendment to the Animal Welfare (Amendment) Act 1997 to fix up a cross-reference that will no longer exist with the passing of the Food Bill. The substance of the existing egg labelling provisions has not been changed apart from some minor drafting changes.

Members may recall that I moved to amend the regulations on the food labelling when they were first introduced because I thought that the labelling was not conspicuous enough. I still hold that view, but my intention today is not to repeat that debate but merely to ensure that the existing labelling requirements continue.

Placing the egg labelling requirements in the Animal Welfare Act preserves the purity of the new Food Bill, which was a concern of the minister. I understand now that there is legal advice. This is very bad process. Mr Corbell has just said that he would not support this amendment. I have not had a chance, except in the last two minutes, to look at the apparent legal advice that Mr Moore has given him. From what I have read it is just the usual objections that were put when we had this initial debate. There are comments in that advice on what we decided as a parliament, and I have not had a chance to read the rest of it.

Apparently, according to what Mr Corbell said, the argument is related to the fact that the labelling is not actually an animal welfare issue. I would argue that that is quite incorrect. The reason we wanted labelling was that we wanted consumers to know how the eggs were produced, because then they could be informed and choose, for animal welfare reasons, not to buy the eggs.

I find this difficult because I have not been able to read the advice. Really, I cannot do more. I am interested in hearing another explanation from Mr Corbell or Mr Moore about this amendment, and why Mr Corbell in particular will not support my amendment. I understand from Mr Corbell that his stand-alone bill tomorrow will get support, so that is fine. The Greens will be happy to see the continuation of the labelling in the ACT, whatever mechanism is needed to achieve that. Clearly, the outcome we want is the labelling. I am just surprised that no-one has bothered to give me this legal advice so that I could have an informed response.

Basically, we understand that if a national mandatory egg labelling scheme comes along in the future we can revisit these provisions, but for the moment I think this Assembly should respect the decision of the previous Assembly to introduce egg labelling, which is what this amendment is intended to do. The decision was made in response to the animal welfare concerns, as I said, held by a significant number of people of the community, and it was supported by the Productivity Commission. The egg labelling laws should be allowed to continue, and they are an animal welfare Issue.

MR CORBELL (5.31): As I have indicated, the Labor Party will not be supporting Ms Tucker's amendment today, but that is more to do with a disagreement about the process in which these laws are maintained rather than a disagreement with the objective that I believe Labor and the Greens, and potentially other members of this Assembly, are seeking to achieve. The objective that we are seeking to achieve is the maintenance of the ACT's very strong and, I would argue, progressive labelling laws in relation to hen eggs.

Yes, the Greens and Labor do have a disagreement about how that can be achieved, but I do not think that should become the major issue in this debate.

The major issue in this debate needs to be the maintenance of the existing laws. The Labor Party originally was prepared to support Ms Tucker's amendment, and I indicated that to the Greens. However, I have received further advice from the minister's office. I should stress to Ms Tucker that it is not legal advice; it is departmental advice which I sought from the minister.

If Ms Tucker chooses not to seek that advice, that is her business, Mr Speaker. I sought to get as good an understanding as I can as to the most appropriate way to proceed in this matter, and that is what the Labor Party has done. I regret not being able to inform Ms Tucker prior to the debate, but that is just a matter of unfortunate timing, which I am sure all members appreciate sometimes occurs in the sitting period.

Mr Speaker, the Labor Party will not be supporting the amendment today simply because the advice that we have received, and which we are prepared to accept, is that to amend the bill in the way proposed by Ms Tucker will potentially jeopardise the national agreements that have been reached in relation to this legislation, and, further, will seek to put the egg labelling laws in a piece of legislation which will not guarantee their best operation.

As a way of highlighting that, I would stress that to place the egg labelling laws in the Animal Welfare Act will require animal welfare inspectors to enforce the egg labelling provisions in supermarkets, and that approach is one which I do not think is appropriate. I think there are better things for animal welfare inspectors to be doing than cruising the aisles of Woolworths in Dickson, making sure that the egg labelling laws are consistent with our labelling laws. That is one of the perhaps unintentional side effects of Ms Tucker's proposed amendment; that enforcing the provisions that she wants to insert into the Animal Welfare Act will mean that animal welfare inspectors, who really should be out in our rural leases and out at Parkwood, will instead have to spend some of their time checking the labelling provisions in supermarkets. I do not think that is appropriate.

I should stress that the approach that Labor is adopting today is different from that of the Greens, but it is different in a matter of process, not in a matter of outcome. The Labor Party will be moving to ensure that the egg labelling regime, as it currently exists, is maintained in its entirety. I have already indicated to members that I will be presenting a bill tomorrow to that effect. So, instead of having a somewhat unclear situation in relation to egg labelling, we will have a clear legislative framework through a stand-alone piece of legislation, which, as I will argue tomorrow, members should be supporting if they want to support the existing regime. Mr Speaker, we will not, unfortunately, be able to support Ms Tucker's amendment today.

MR MOORE (Minister for Health, Housing, and Community Services) (5.36): Mr Speaker, I have had discussions with Mr Corbell and I have looked at the amendment from Ms Tucker. There is no doubt that the outcome that Ms Tucker seeks is one that the government agrees with. Perhaps if I had put a bit more effort into thinking of the lateral solution that Mr Corbell came up with we would have been able to proceed down that path earlier with less fuss. That is, I think, a sensible approach.

I also indicated to Mr Corbell that I will follow this through and make sure that the commencement of the two acts coincides. I am assuming that the bill that Mr Corbell puts up tomorrow is able to be supported. I assume that it will because it will implement the current system. What will be important to the government is making sure that we commence the new Food Act at the same time that we commence the legislation that Mr Corbell puts up, and in that way ensure a continuity of the current egg labelling scheme here in the ACT. That is what Ms Tucker wants to achieve, I believe, and I think that is the most effective way of doing it.

Voting against the amendment that she puts up today is about protecting the national agreements that are made about protecting the integrity of our national food system. If we interfere with a national code, why shouldn't somebody else take their turn and say, "Look, what is important to us is strawberry jam. We think it should have more strawberries in it, or less strawberries or something else." The code breaks down even before it starts. That is the fundamental reasoning that underlies this. We have an agreement and we will have a national standard. Therefore we should deal with the egg labelling issue separately from the issue of the Food Bill.

I look forward to seeing the bill that Mr Corbell has indicated he will table tomorrow, and I look forward to the continuation of the egg labelling scheme that the Greens, through Ms Horodony, introduced into this Assembly.

MS TUCKER (5.38): I would like to respond to a couple of issues. Yes, of course, if we have the same outcome, the Greens are happy with that. I am not sure that we will. Because of the pressure of this working week, I do not know exactly what Mr Corbell's bill says. I am hoping that it has battery cage—

Mr Corbell: You have a copy of it. Your office has a copy of it.

MS TUCKER: I know my office has a copy. I just explained, Mr Corbell, that under the pressure of business in the last day I have not read it. I want to know—

Mr Berry: What is wrong with you, Kerrie? Have you gone soft or something?

MS TUCKER: You can clarify this for me, if it is not too much trouble, although it probably would be because you did not want to tell me that you were changing your vote, and that you had totally changed your position since I last talked to Mr Corbell, but that's fine; I am sure he is a busy man, too. But maybe he could explain whether or not he is using the same words in his bill, or is he adopting the words of the national code which gives labels to say "caged".

Mr Moore: You will have a week to look at it.

MS TUCKER: I think it would be useful for this debate if Mr Corbell—

Mr Corbell: I am using exactly the same words.

MS TUCKER: Exactly the same. That's great. Okay. So that is one thing I am reassured about. Mr Corbell put up a rather silly argument about administrative arrangements and who would be auditing, and he thinks it is true; but it is my understanding that, just through changing administrative arrangements, you can decide who will be monitoring and regulating particular areas. I am interested to hear whether that is incorrect, as I have it on good advice.

Anyway, the more important point I want to make to Mr Moore is about this obsession with national codes. I have to repeat that there is a danger when we have this level of commitment to national codes because it is a race downwards. Mr Moore chose to use the example of strawberry jam with not enough strawberries in it. I think that is a little bit offensive. If you look at where such exemptions apply, there are important

environmental issues. You have the container deposit legislation; you have crayfish in Tasmania, from memory; and there are others. If we had got this exemption for phasing out battery hens and having labelling, this is about an important animal welfare issue which was agreed by the Productivity Commission as being worthy of the public interest consideration. So this isn't just about more strawberries in strawberry jam, Mr Moore; this is about a civil society taking a position on a horrendously cruel form of farming.

MR MOORE (Minister for Health, Housing and Community Services) (5.41): First of all, having looked at what you call a tremendously cruel form of farming, I suggest you go and have a look at some of the current farming systems of the modern type, not the sort that were there 50 years ago. However, people ought to have that choice. I agree with you, Ms Tucker. But this is the inappropriate place. We must not undermine this legislation. National agreements have a really important role to play. We have to deal with them carefully. I was the one who introduced the interstate agreements act into this place to make sure that the Assembly has the opportunity to check and to monitor these things as they are being developed. Indeed, you have made people aware of the development of these standards as they went on. We must not undermine them.

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Postponement of orders of the day

Ordered that orders of the day Nos 5 to 12, Executive business, be postponed until a later hour.

Agents Amendment Bill 2001

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

> That this bill be agreed to in principle.

MR HARGREAVES (5.43): The opposition will be supporting this bill. There are two aspects to this bill. The first deals with the restrictions on where agents can operate. In 1996 the Assembly passed amendments which allowed small businesses to operate from home in certain circumstances. However, under sections 48 and 49 of the Agents Act, agents have been prohibited from operating a business from home. This bill removes the anomaly and permits agents to operate a small business from home.

The second part of the bill deals with claims for compensation under the agents fidelity guarantee fund. Under the Agents Act, a person who suffers pecuniary loss by reason of a failure to account by a licensed agent may claim compensation with the agents board. A recent case involving a claim for compensation with the board highlighted uncertainty concerning the operation of the requirements for making a claim. In particular, the AAT held that provisions that had previously been considered to be mandatory were not mandatory. This bill removes the uncertainty and makes clear that the procedural requirements of the law are mandatory and must be complied with before a claim with

the board can be addressed. These requirements will lend certainty in the management of a claims process.

I am happy to lend support to the bill, Mr Speaker.

MR HIRD (5.44): Mr Speaker, I have had a watching brief on this bill for some time, and I am delighted that it has finally come forward. The agents board became an agent for the then NCDC and later PALM in respect to the usage of premises. I have spoken many times in this place about local shopping centres which lay dormant. An agent would need to get approval in accordance with sections 48 and 49 of the Agents Act 1968, and that was pretty well impossible. I am delighted that this has finally come to the surface. It is pleasing that the opposition will be supporting the legislation. I commend the bill to the house.

MR STEFANIAK (Minister for Education and Attorney-General) (5.45), in reply: I thank members for their comments. I note that the scrutiny of bills and subordinate legislation committee has identified a minor drafting error in proposed new subsection 71ZA (3). It requires a full stop. That error, I understand, is being dealt with by a Clerks amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Rehabilitation of Offenders (Interim) Bill 2001

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

> That this bill be agreed to in principle.

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

Tobacco Amendment Bill 2001

Debate resumed from 3 May 2001, on motion by **Mr Moore**:

> That this bill be agreed to in principle.

MR CORBELL (5.47): Mr Speaker, whilst my colleague Mr Stanhope wends his way down to the chamber I will outline some of the key issues which the Labor Party is concerned about in relation to this bill. Before I do that, I think it is important to outline the approach the Labor Party has adopted in relation to tobacco over the past 11 years or so of self-government.

The Labor Party has a very strong and well recognised record nationally in relation to tobacco issues. It was my colleague Mr Berry who first of all set about the process of providing for a stricter regime to control where people could smoke in the ACT and to send the appropriate signal about trying to get people to stop smoking because of the very clear and well documented adverse health impacts that smoking has.

The minister for health introduced this bill on 3 May to make some amendments in light of the experience to date with amendments the Assembly passed concerning limitations on point of sale displays. This bill provides a clarified definition of point of sale by way of regulations and that a health warning notice must be displayed at a tobacco point of sale display in accordance with the regulations. By allowing regulations to be made with respect to a point of sale, the bill allows for more detailed criteria to be specified in order to identify what constitutes a point of sale within a retail or wholesale outlet.

The main reason for this bill from the Labor Party's perspective seems to be that retailers have been seeking clarification on what constitutes a point of sale. The current definition does appear to be too lose and is creating confusion for retailers who are genuinely trying to comply with the previous amendments passed by the Assembly. This bill will also allow for health warning notices to be updated by regulation in a timely fashion. This is also an important, albeit minor amendment.

Mr Speaker, on the basis of these two important changes which help to clarify the original intent of the Assembly when it passed these amendments a short time ago, the Labor Party will be supporting this bill.

MR MOORE (Minister for Health, Housing and Community Services) (5.51), in reply: I thank Mr Corbell for his eloquent speech on a subject that he has not spoken on at length, but we know that all members of the Assembly have taken a strong positive interest in tobacco legislation. Part of my normal process when we debate tobacco legislation is to acknowledge the work that Wayne Berry did on this issue. By and large I think there has been a positive approach from the Assembly. We have to continue that approach step by step.

Earlier today a petition was tabled calling on this Assembly to deal with legislation with regard to vending machines. I believe that is the next step. I would not be surprised to see Mr Berry hit the new Assembly with a piece of legislation on the removal of tobacco vending machines, because we do know that they are the highest access point for young people. We have taken the appropriate step by ensuring that vending machines are visible in bars and places like that so that they are monitored. However, vending machines are still highly accessible for young people.

I appreciate the support of members of the Assembly for this bill and look forward to a continuing march down this path until such time as there is minimal use of tobacco. But it is an addictive drug, and we expect that it will be part of our society for a long time to come. I just hope that society becomes a smaller and smaller part of our community.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Legislative Assembly (Broadcasting) Bill 2001

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

> That this bill be agreed to in principle.

MR CORBELL (5.52): Mr Speaker, this is an important bill which arises from an inquiry by the Standing Committee on Administration and Procedure and the individual experience of committees and members of the application of the Assembly's broadcasting legislation and broadcasting rules to date.

In general, and in principle, I think all members would support the notion that we must ensure that the proceedings of the Assembly and of committees of the Assembly are as open, public and transparent as possible. One way of achieving that is to ensure that proceedings of this place and proceedings of committees are able to be recorded and broadcast to a wider audience.

The original Legislative Assembly (Broadcasting of Proceedings) Act made provision for that to occur, but in practice that act, as you would know, Mr Speaker, has proved to be unwieldy and awkward in its day to day implementation. It also places constraints on exactly what can and cannot be broadcast from this place. For instance, this debate today is only broadcast publicly in Hansard, not in any other way. Indeed, a recording of the debate that we are currently conducting would not be able to be rebroadcast in any way except through someone reading the Hansard transcript.

It is true to say, Mr Speaker, that much of what occurs in the Assembly, or indeed in any parliament, is far from the earth-shattering prime time viewing material that many people would like to see. Perhaps it is more akin to a late night broadcast. Nevertheless, it is appropriate that we ensure that the broadcasting of the Assembly's proceedings is made more open than it is to date.

The Labor Party will be supporting this bill today because it removes the provision that requires you, Mr Speaker, to authorise in advance the broadcast or recording of any proceedings from this place or from a committee of this place. That provision has meant that to some extent those proceedings which have been broadcast, either from the Assembly or from a committee of the Assembly, have been set piece actions, so to speak, in that members have chosen that they be broadcast, particularly debates in this place, and have then staged the debates in such a manner as to achieve maximum possible exposure from that broadcast.

I do not have a particular difficulty with that, Mr Speaker, but it still provides for a level of artificiality in how people outside this place view proceedings in this place. So the provision in this bill which removes the requirement for you to authorise proceedings for broadcast or recording prior to them taking place is one which is to be welcomed. Importantly, though, the bill does provide for you, or this Assembly or a committee, to

withdraw the right to have certain proceedings broadcast, and equally, and most importantly, the bill sets out powers for this place to set in relation to how matters shall be broadcast and the way those broadcasts are conducted.

Mr Speaker, this bill is an important reform in further opening up the broadcast and the operations of the Assembly. The bill also makes provision for electronic broadcasting such as over the Internet, through techniques such as audio or video streaming, and this approach is one which is also to be welcomed. Streaming already occurs in the Commonwealth parliament, as well, I understand, in at least one state parliament. Perhaps that is an approach which is worthy for this Assembly. Clearly, in a small city such as ours there may not be the demand or the interest for a broadcast in the way that the federal parliament is broadcast, but having the proceedings of the Assembly streamed through the internet would allow anyone interested in the proceedings of a particular debate to listen to them in real time over the internet, and I think that would be a considerable advance.

I think the other advance that is worthwhile and that I welcome, Mr Speaker, is one related to question time. It has always struck me as ironic that citizens of the ACT are more likely to see the proceedings of the New South Wales parliament's question time than they are to see their own parliament's question time. In the news broadcasts that we receive from Sydney we quite regularly see footage of question time in the New South Wales Legislative Assembly or Legislative Council, but I do not think I have ever seen on local TV a question asked and a question answered in the Legislative Assembly. I think it is about time that that changed. This bill will allow such broadcasts to occur, albeit that—

Mr Wood: The questions are fine but I don't know about the answers.

MR CORBELL: Mr Wood interjects that the questions are fine but the answers are not all that flash. Perhaps broadcasts may assist, Mr Wood. Mr Speaker, the bill makes provision for the Assembly to set down the rules in which broadcasts take place, and that is very important in ensuring that the operations of this place are properly protected.

The final issue the Labor Party welcomes in this bill relates to matters of privilege. During the inquiry by the Standing Committee on Administration and Procedure there was a question about how issues of privilege would be dealt with if matters in the Assembly were broadcast, particularly broadcast live. I am pleased to say that those issues seem to have been adequately addressed in the current legislation. Having got over that hurdle, I think it is now appropriate that the Assembly move on and pass this bill which will allow more open broadcasting of all proceedings of the Assembly, not just those proceedings that members themselves deem to be significant enough.

Sitting suspended from 6.00 to 7.30 pm

MR STANHOPE (Leader of the Opposition) (7.30): Mr Speaker, I want to speak very briefly to the bill. I indicate my support for the proposal to enhance or facilitate additional broadcasting of Assembly procedures. I think this is a very good initiative, which has the potential to make the Assembly more relevant to the people it serves.

In the context of some of the trials and tribulations that the Assembly has suffered over the years since self-government—the residual resistance that continues to persist in relation to self-government in the ACT and the operation of the Assembly—I think anything that we as an Assembly can do that projects to the Canberra community the important work that is done in this legislature will not just enhance the standing and reputation of the Assembly but will potentially improve the legislative process and outcomes. A whole range of positives would arise from the people of Canberra taking more interest in the work of their Assembly.

Perhaps it would be hoping for too much to expect that the people of Canberra might show some pride in the work of the Assembly, but certainly I think by making politics and decision-making more relevant to the community, the broadcasting of proceedings can only lead to a strengthening of this institution. It is true that, to a large extent, the Assembly is not all that visible, that it does not loom large in the minds of the people of Canberra, and I think that is a pity. This sort of situation does not enhance the processes of the parliament and it does not strengthen the institution.

There is a lot of debate these days in the community about, for instance, the relevance of politics, politicians, parliaments and the law-making process to the people. A lot of commentators speak of this disconnection—a term that I see used as much as anything else—between the elector, the voter, the citizen, and the decision-making processes. It is a disconnection that many social commentators use in their attempts, for instance, to seek to understand some of the One Nation phenomena, if it can be called a phenomena—the sense of alienation, disempowerment and disconnection that separates people from the decision-making processes.

So this is an issue that we need to take seriously. One way to address it is to broadcast Assembly proceedings. That is why I, for instance, have been quite keen to engage, say, at least the ABC, the national broadcaster, in some sort of debate or dialogue around the role that that institution can play in the broadcasting of proceedings of this place. I think there is significant potential.

A range of other things can be done to strengthen this Assembly, this institution. I think that goes to issues around the way the chamber behaves and the way we project ourselves as a responsible legislature. But, of course, there is a whole range of other initiatives over and above broadcasting that we should consider. At the heart of those is how we regard ourselves. To the extent that I had some concern about the Chief Minister's attraction to a council-style government—

Mr Humphries: You'd like to be the mayor, wouldn't you?

MR STANHOPE: Yes, that's right.

Mrs Burke: Mayor Stanhope.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! The Leader of the Opposition has the call.

MR STANHOPE: I have been aware of the Chief Minister's attraction to the council style of government. I think he has obviously spent some time observing the Queanbeyan City Council and he is attracted by some of the movements there. Of course, the Chief Minister has also expressed some fondness for the prospect of the direct election of the Chief Minister. I guess they are initiatives, and I respect the fact that the Chief Minister has thought about these issues and put forward alternative models.

But one of the concerns I have about the Chief Minister's championing of these issues is the extent to which it sends a message that he, as the Chief Minister of the ACT, as the leader of the government in this parliament, is not all that inclined to defend self-government. In effect, his message to the people of Canberra is that he is more inclined to abandon this format or style of government. There is almost a suggestion that he is a little bit embarrassed to be associated with it; that his membership of this parliament, this Assembly, perhaps causes him to blush a little bit from time to time.

Mr Humphries: Doesn't it do that to you? Don't you blush occasionally here?

MR STANHOPE: Well, aspects of behaviour exhibited here that perhaps reflect certain human foibles perhaps cause one to blush, Chief Minister. I accept that but they are issues around our individual foibles and perhaps idiosyncrasies and weaknesses.

But to the extent to which you, as Chief Minister, champion another form and style of government, it seems to me that impliedly or subliminally you are sending a very strong and powerful message that you join with those that continue to pull this institution down; that you do not believe that this Assembly is worth saving or worth persisting with; that you have some serious doubts about the value of this institution.

Periodically you raise issues around "Let's abandon the Assembly; let's abandon the parliament; let's go to a Queanbeyan City Council style of government for the ACT; let's have a direct election for Chief Minister". These issues were raised before the last election. They are issues which Pettit did not embrace and which the Osborne select committee on governance did not find particularly attractive. Nevertheless, you persist in raising these alternatives. As I say, I respect your right to do so. I think it is healthy for us to have a debate about these issues but I am concerned that you do pull the institution down, that you do not allow us to develop the reputation that any vigorous and vibrant institution needs in order to attract the support of the people that it seeks to serve.

I just say those things almost as an aside or a digression. But it seems to me that we should be a little more muscular about measures such as the government's decision—and a very good decision, I must say—in the bill we are debating today to seek to broadcast the work of the Assembly. In that context, I have certain views about the need for this institution to be just that little bit more user friendly.

Earlier today, in a rather amazing press release, the Chief Minister sought to attack some of my suggestions. To the extent that we are ensconced in a single building that is the entire focus of parliament in the ACT, we need to be sure that people feel comfortable about coming here, that people do not feel there are any barriers to their entry or approach to this place. Indeed, do people know where the Assembly is? I would be interested in the results of a straw poll which asked the people of Canberra where the Assembly is located.

Mr Humphries: You have to ask whether they want to know where the Assembly is.

MR STANHOPE: Perhaps. That goes to the nub of the point I am making, Chief Minister. If they do not know where it is, why not, and if they do not want to know where it is, why not? I think these are legitimate and serious issues. I think if we conducted a straw poll of the people of Canberra and asked them where the federal parliament is, everybody would know. But if you asked them where the ACT Assembly is physically located, I am not sure how many people in Canberra could tell you. I fear, very few.

The fact that nobody is in the public gallery at the moment—we talk and joke about this from time to time—and the fact that nobody ever comes to question time is a reflection on us. It is a reflection on the strength of this institution and our determination to make this Assembly relevant and meaningful to the people of Canberra. We are being scorned by the people. The fact that nobody ever comes here is a reflection of our collective failure to seek to connect the work of this Assembly with the lives of the people of Canberra.

I applaud the government for putting forward the amendments in this bill. I raise these issues for further debate and discussion.

MS TUCKER (7.42): I think this bill is a good move in that it extends the broadcasting of the Assembly and its committees to a potentially wider audience and makes the workings of the Assembly more accountable and transparent. It allows the public to see more of their MLAs in action, which could be quite a shock for some people, given the level of debate in this place in the last few weeks.

I acknowledge there is a danger that some MLAs could just start acting up for the camera rather than focusing on the issues. But I think Canberrans would see through this. On balance, I think it would be better for democracy if the workings of the Assembly were exposed to the public eye as much as possible. I will be supporting this bill.

MR MOORE (Minister for Health, Housing and Community Services) (7.43): Mr Temporary Deputy Speaker, I put the original bill before the Assembly. I think the amendments are positive and that they will add some openness to the Assembly.

It was interesting to hear Mr Stanhope and others say that the broadcasting of Assembly proceedings will open up the way this place operates. Indeed, if Mr Stanhope has his wish, people will be able to listen to the way he speaks while turning his back to whoever is in the chair; they will be able to muse at the way in which questions are asked and ministers respond.

Mr Temporary Deputy Speaker, I have indicated my view privately to members—I will do so publicly at this stage and what I say will not affect me personally. I would very strongly recommend that certainly, in the first instance, you do not broadcast question time. The only part of the proceedings of federal parliament and other parliaments that the media broadcast is question time. As a result, there is a perception in the broad community that parliaments are only concerned with question time. In fact, question time constitutes only a very small part of the business of parliaments.

I have always been of the view that before question time in the Assembly is broadcast it would be appropriate to make sure that members of the public heard some of the very sensible debates that take place in this chamber. I think members of the public who had listened to or watched the debate that took place today on the referendum issue would say, "Yes, Assembly members have thought about that. Although there are strong and different views on this issue, they expressed their opinions in a reasonable and rational way; any difference of opinion was sorted out and in the end it was put to a vote; and, in spite of those strong opinions, the debate as largely conducted in an appropriate way."

Mr Temporary Deputy Speaker, there is no question that the workings of this Assembly ought to be heard by the public. I think Mr Wood, Mr Berry, Mr Humphries, Mr Kaine and I were here in 1989. Mr Stefaniak, who was also here in 1989, took a little bit of a breather for a while and then came back. We remember how difficult those first few years of the Assembly were. When you went to a public meeting the first thing that was said was: "Well, we didn't want you anyway." On many occasions it must have been particularly difficult for Mr Kaine as Chief Minister.

A huge amount of work has been done to get people to accept that we do exist as an Assembly. We influence the daily lives of individuals. We have a huge responsibility and I will be very pleased to hand over that level of responsibility to other people.

The legislation we are now dealing with leaves room for the next Assembly and whoever happens to be here to develop the rules structure. I suggest that each step be taken very carefully. I am not saying that there should never be broadcasting of question time—I am saying it should be done step by step to make sure that the Assembly improves its status within the community.

MRS BURKE (7.47): Mr Temporary Deputy Speaker, I want to make a couple of points. I would agree with Mr Moore that we have seen a very high level of debate today. I also agree with Mr Stanhope that disconnection separates people from the decision-making processes.

If broadcasting ensures a higher level of professionalism and behaviour in this place then I obviously agree that that is what we need to be doing. This behaviour must, of course, begin with all of us in this place. Only we can work on this culture change. Hopefully there will be flexibility in this legislation so that Assembly members can look at some of the broadcasting issues.

I have a concern—and this point has already been raised—about the televising of question time. Quite frankly, question time in the federal parliament often looks like a circus. If that is the opinion and perception of people then the wrong message is being sent. I believe that message is washing down to a local level and we need to take that into account in this place.

Of course, we all should be under public scrutiny at all times, not just at certain times, so there is that side to the debate, too. Our behaviour should be beyond reproach. The general public does need to see us more, we need to be more visible, and, as Mr Stanhope said—and I like this description—we need to be user friendly.

As Ms Tucker said, it is true that past behaviour in this place has not been a good advertisement for politics and politicians. We must encourage each other to attain high levels of order and behaviour. We need to earn the respect of the public. Respect is not duly given—it has to be earned. I commend members on their level of decorum in and contribution to today's debate.

MR BERRY (7.49): Mr Temporary Deputy Speaker, one of the things that trouble me about this bill is that the period of consultation has not been long enough. There ought to have been a level of consultation hitherto not seen in this Assembly, because I do not think the television networks out there know what is about to hit them.

This Assembly is about to be placed in all the bars, taverns and clubs around this town where people, huddled around television watching Foxtel and other pay TV channels, are hooting, applauding and enjoying themselves. Their lives are about to change. Pretty soon those people will latch onto the in-depth and passionate debates of this place. You will hear the screams of joy when Mr Hird is lording it over us for breaching the standing orders. You will see Harold give the thumbs down. People will be saying, "Sort them out. Keep them in line, old son." I can just imagine all those people at the Labor Club throwing down a schooner or two and rejoicing at the chance to pass up Raiders and Brumbies games to watch the Assembly.

I do not think there has been enough consultation about this issue at all.

Mr Osborne: They will be sleeping outside overnight, waiting to get in.

MR BERRY: That is another issue for the Speaker. He will have to put a boom gate or something out there.

Mr Osborne: They will be camping outside in the lead-up to question time.

MR BERRY: There will be tickets sold to enter this place. They will be out on the footpath at Moby Dick's tavern in Kippax waiting for the celebration to start. And that is even without question time being shown—just imagine the demand when question time comes on!

Mrs Burke said that question time up on the hill is a circus. I do not think it is. I think it is about the passionate exchange of ideas on particular issues and the pursuit of different ideas around the place. The people out there want to see that. Nobody has ever rang me to ask for the proceedings of the Assembly to be telecast but I know from looking into people's eyes as I go around the electorate that they are saying, "We want to see more of you." This is the message that is coming through loud and clear.

I do not think people really understand the import of this bill and the level of consultation that ought to have happened beforehand. There is to be a bit of a break between now and when the rules that were talked about earlier have to be sorted out by the Assembly. So beware. I reckon that there will be all sorts of discussions with the major television companies and the pay TV providers about what will happen in this place after the next election.

Mr Stefaniak: Do you reckon we could get sponsorship?

Mr Osborne: Or cards. Kids will have them at school.

MR BERRY: Well, that may be so. I have had my little joke. I think there is a need to somehow project this place into the community. I do not know how to do it and I am not quite sure that this is the answer. But if you televised this particular debate, for example, I think my claims about the throng of people hanging around the television at the Labor Club would probably be a bit of an overstatement. A lot of very serious debates that take place in this Assembly are worthy of being televised but whether they would compete with something like *One hundred years of Four Corners* is another question.

I think it is a fundamental part of democracy that we enable in an unfettered way all of the media outlets to have access to what goes on in this place. Information is freely available to people who might walk into the Assembly and information should be available to the media. But in the end it is going to boil down to who is going to be prepared to transmit the proceedings of the whole day. I think that is a different proposition.

There is also the option of streaming information through PCs and all that sort of stuff; and as TransACT comes online, with all of that capacity and all of those 28,000 people signed up for $8,000 each—it is all going to happen. Nevertheless, this is a worthy thing to do. It is something that I think will enhance the understanding of this place.

The education department of the Assembly has an important role to play in educating members of the public. In our own way we educate people about our own ideas, but there are people working in the education department of the Assembly who are trying to get the message to the younger generations. I think that is an extremely important issue for the future of the Assembly.

It might not happen in our time, but in future those young people will have a better understanding of the place—an understanding which is not held by people of our generation. Young people are the ones who might log on occasionally or perhaps look at the TV and say, "Well, I understand what's going on in there because I've been there and had a look at it all happening."

I am pleased to see that this legislation has been put forward and I look forward to some prosperous outcomes for democracy in this city. But I do not think we will ever have a council-style government. At every election we seem to hear that we are going to have a council-style government. I think we might see the red cape come out shortly.

Mr Humphries: It has been raised for years, Mr Berry.

MR BERRY: Yes, it has been raised at every election.

MR TEMPORARY DEPUTY SPEAKER: The chair thanks gladiator Berry for his comments.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (7.57), in reply: Mr Temporary Deputy Speaker, I am not going to look any support for the bill in the mouth, even if it is slightly bizarre. I look forward to seeing Mr Berry rigged up with his padded shoulders, little helmet and knee-pads. I am sure he will have a moniker of some sort that befits that kind of outfit. Perhaps it will be something like "the fireman".

It is hard to imagine Saturday night footy being replaced by Saturday night parly. But, who knows, if we rise to the occasion I am sure we can entertain even the most hardened crowd when it comes to providing entertainment for the masses.

Mr Temporary Deputy Speaker, we heard a lot tonight about what Mr Stanhope called alienation, disempowerment and disconnection of the parliament; that we need to do something more to get people enthusiastic about our parliament.

Mr Moore: He should have been here in '89, shouldn't he?

MR HUMPHRIES: Indeed, that is the case. I think some of us would recall that if you ever wanted disconnection, disempowerment and alienation, you only needed to be around in 1989 when members of the Assembly were practically spat on in the streets, for a variety of reasons. You might say that we have come a long way since then, and perhaps we have. But, by the same token, we also have to acknowledge that there are still some very significant problems out there.

We have an image problem. We are still not seen as the embodiment of the democratic spirit. In certain parts of the world, such as East Timor, people have been dying for the right to be represented and to have parliaments to vote for and to look after them. However, at some stages in our history the ACT has virtually been at the point of having people willing to die on the streets to make sure we did not have a parliament to vote for.

I think the problem is about the product that we are trying to sell, not about the way in which we are trying to sell it. I do not think the problem is that people do not know what we are doing. I think in some respects people know all too well what we are doing and they are not all that impressed. I note that there is a need for us to rethink the way government works in the ACT.

Let me put my view. I do not think it is a good idea for us to start broadcasting question time in this place because to do so would not bring any credit to this Assembly or its members. I do not think people would be overjoyed to see what we do in here, and I think the more they saw of it the less they would think of us.

Whether you would say that the broadcasting of question time in the House of Representatives, or at least extracts of it in the news, has been a great success is a matter of some debate. But I certainly recall seeing footage of our leaders in recent years which has been very much less than flattering, and I am not sure that we need to do the same thing here. However, Mr Temporary Deputy Speaker, this bill is designed to make sure that, if we decide to do so at some point in the future, we can broadcast out proceedings and ensure that the access that some people crave can be facilitated.

Undoubtedly a measure of adjustment needs to occur before this can happen. As I have said, I would argue that this is not a matter of us being out there more vigorously defending and selling the concept of self-government. In the last 12 years I have done my share of arguing that the ACT needs to be self-governing, that we need to have a parliament like this and that we have to make our own decisions, because we are big boys and girls now. But there is still a very clear sense in which the ACT community has not connected with us.

As I pointed out, I think the problem is the product that we are trying to sell. We need to consider the way we do things in this place, the way we operate our form of government. When I go to meet the minister sessions, when I go shopping and I get stopped in the street, and when I am on talk-back radio or whatever it might be, I have noticed that the issues that people raise are issues of a municipal nature that local councils in other parts of Australia are concerned with—roads, street lights, parks and garbage collections. These are the things that people want to talk about.

Occasionally people want to talk about our laws on in-vitro fertilisation, the latest amendments to the Credit Act or some such state-like activity, but it is not that common for such subjects to be raised with me. I believe that rather than beating them, we have got to join them. We have got to accept that people want a different model of government in this territory. We have got to work towards revising and reviewing the sense of what we deliver to the people of this city.

We had a review into the nature of self-government in the form of the Pettit inquiry, which reported before the last election and was responded to by an Assembly committee early in the term of this Assembly. If you look at what that has achieved, you will see that very little of the reforms that were foreshadowed in that review, or in the subsequent Assembly inquiry into that matter, have been implemented. This is not because legislation has been blocked on the floor of the Assembly or whatever. It just seems to be that there has not been the consensus to take those things forward.

I know that from time to time we talk about doing some of these things, and I see members of the opposition are now talking about having electorate offices. That is fine but I really do not think that is going to turn around people's perception of what we do in here. But I accept that that view is being put forward.

I believe very firmly that we need to talk about the way this place works. We need to talk about whether we are properly meeting the expectations of this community by being a very miniature replica of the Westminster parliament, with our ministers, shadow ministers, whips, Speakers and so on and so forth—

Mr Kaine: And our crossbenchers.

MR HUMPHRIES: No crossbenchers.

Mr Kaine: Don't forget the crossbenchers.

MR HUMPHRIES: I do not think Westminster enjoys quite the experience we do as far as crossbenchers are concerned—I use the word "enjoys" advisedly, Mr Temporary Deputy Speaker. But we try to do what the house on the hill does, what every other state

parliament does and what they do in Westminster, and I am just not sure that it works. Rather than saying, "You will learn to love this institution of self-government whether you want it or not," I would argue that we need to meet people's expectations halfway.

As I have said, Mr Temporary Deputy Speaker, I am reluctant to consider the broadcasting of question time. I think that would be a difficulty. But I think we need to actively address what Mr Stanhope calls alienation, disempowerment and disconnection. I would use another term—I would say "democracy deficit". That is why I argued earlier today for a form of participation by ACT citizens in not just consultation with law-makers but involvement in the government of the territory and the decision-making processes. I think that is important to consider.

Mr Temporary Deputy Speaker, I thank members for their support of the bill. I am surprised in many ways that it has taken 12 years of self-government to get to the stage of passing a bill that says, in one of its opening clauses, "A person may broadcast, or record for broadcast, all or part of public proceedings of the Legislative Assembly or a committee of the Assembly," but I suppose it is a case of better late than never. We now have this legislation on the table and it will be of advantage to us to have that power clearly embodied in a piece of law.

Mr Temporary Deputy Speaker, I will make one small comment before sitting down. I note that clause 8 (1) (b) of the bill refers to section 7 (2) (c), when I think it is obvious that it should refer to 7 (2) (d). I ask you, Mr Temporary Deputy Speaker and the Clerk to note the potential for that to be corrected by a Clerks amendment. I thank members for their support for this bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Defamation Bill 1999

Debate resumed from 9 December 1999, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

Motion (by **Mrs Burke**) negatived:

> That the debate be adjourned.

MR KAINE (8.09): I thank members for allowing me to do what I understood had been agreed. This important bill deals with a subject that is of great importance to a lot of people. It is a bill that perhaps we should have dealt with long before this. It has been a long time in gestation. Unfortunately, I would have to say that if I were a teacher in Mr Stefaniak's education system, I would have to grade the bill "good effort but needs more work".

Mr Temporary Deputy Speaker, the present law of defamation is filled with complexities that have enriched more lawyers than plaintiffs. The media needs clear guidance about how far they may go without defaming somebody. We each in our daily lives need guidelines about the limits on what we may publicly say about other people. We all need to know what our rights are when we read or hear something that we consider damaging to our reputations.

The principles of the bill have been summarised in the Attorney-General's presentation speech and in the explanatory memorandum, and I do not see any need to take the time of the Assembly to restate what the bill provides. Rather, I think we should be looking at the possible consequences once defamation legislation of the kind that we have in front of us falls into the hands of the lawyers. I wonder how long it will take for the lawyers to begin to dismantle its principles, to use precedents derived from the old laws which this bill replaces as arguments to subvert what this bill sets out to do? Our common law system cannot prevent that from happening.

Mr Temporary Deputy Speaker, each jurisdiction in Australia has its own law relating to defamation. The practice is well established that plaintiffs shop around between jurisdictions to seek the one they hope will give them the best deal, and I find that an obscene proposition.

In a world of instant communication, defamation has become a national issue, not a local one. A plaintiff living in Victoria can apply to a court in this territory to sue a defendant resident in Queensland over a claimed defamation published in South Australia by a media organisation in New South Wales. So it is definitely a national issue. Enactment by this Assembly of another defamation law will do nothing to improve that situation. If any matter needs a uniform Australia-wide approach and a law that applies in the same way throughout the country, then that matter is surely defamation.

The action of the government in introducing this bill has served one useful purpose at least: it has put defamation back on the law-makers' table. It is unfortunate that the solutions proposed in this bill do not provide a model for a future uniform Commonwealth defamation law.

The justice committee, of which I am a member, has identified fatal defects in this bill, and that is why I believe it needs more work. I submit that we should not pass it in its present form. What remains is an area of public law that needs a major overhaul at national level.

Mr Temporary Deputy Speaker, rather than pass this defective bill, this Assembly should resolve to direct the government to have defamation listed on the agenda for the Council of Australian Governments. Let us do something practical. A national approach, of course, might take one of two possible paths. The Commonwealth, in consultation with the states, could pass a single national defamation law. I think that is a bit unlikely.

If the Commonwealth considers that the constitution does not empower it to enact a national defamation law or perhaps the states are unwilling to provide a basis for a national law analogous to the offshore constitutional settlement established by the Fraser government, the state and territory Attorneys-General could develop uniform state

laws. There are many precedents for that and it could be done equally for defamation, and I say it should be done for defamation.

It would not be simply a matter of the Attorneys-General sitting down and saying, "We shall draft a national or a uniform defamation law that embodies these or those principles." There will need to be consultations between the law-makers and the stakeholders to settle the principles. It will not be easy to reconcile the opposing views of the media and the legal profession in such consultations. It will probably not stand high on any government's list of legislative priorities, but a national approach will deliver a better outcome than would result from this Assembly alone enacting the defective bill that is now before us.

Mr Speaker, the Defamation Bill has failed to convince the justice committee of any strong argument to support the tenets on which it rests. The committee's report is a clear signal that we should reject the bill and I am confident that when we come to the vote the majority of us will do just that.

I will not waste the Assembly's time by canvassing the substance of the committee's recommendations. There is not time during the remaining life of this Assembly for the government to respond adequately to the report, or for parliamentary counsel to draft amendments that would pick up on the recommendations of the committee.

Mr Speaker, if the question that the bill be agreed to in principle were put now, we could save time and consider the huge workload that the government has saved up for us to deal with. We could reject the bill and leave it to the incoming government to put defamation law on a forthcoming COAG agenda. I invite you to do that, Mr Speaker.

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

Justice and Community Safety Legislation Amendment Bill 2000

Debate resumed from 30 November 2000, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (8.16): Mr Speaker, the Labor Party will support this bill, which the Attorney-General introduced on 30 November 2000. The bill contains a number of amendments which can largely be described as technical, except for two or three.

An amendment to the Magistrates Court Act permits the registrar to adjourn and extend the time of interim restraining orders. This legitimises what happens in practice at the courts and will remove one ground for the interim orders being declared invalid if there is an appeal.

Secondly, the amendments to the Sale of Motor Vehicles Act change the requirement for a licensee to be of good fame and character to the description of a suitable person. The new provisions should be easier to administer and still ensure that only persons without convictions under the act for fraud-type offences can be licensees.

Thirdly, the amendment to the Trade Measurement Act permits inspectors to issue notices requiring the owners of measuring devices that do not bear an inspector's mark showing it has been verified as accurate to correct the fault within the stated period of not more than 28 days. In the current act, there is no provision for the correction notice. It is simply an offence to have a device that does not bear a verification mark. Under this amendment, if the owner complies with the notice, they are taken not to have committed an offence under the act. This provision places reliance on the discretion of the inspector to ensure that devices are quickly verified and therefore the public is assured they are getting proper measures promptly. I would hope that the occasions on which businesses are given the full 28 days to have the measuring devices verified are extremely rare, to limit the possibility of consumers receiving short weights or other measures.

The scrutiny committee pointed out that one amending provision, that which relates to the Children and Young People Act, may have a retrospective effect but concluded that the provision is beneficial and therefore unobjectionable. On the basis of that, and noting the points of policy as I have for the record, the Labor Party supports the bill.

MR STEFANIAK (Minister for Education and Attorney-General) (8.18), in reply: I thank Mr Stanhope for his comments. I note there are some amendments. They are simply of a minor and technical nature. Perhaps I will speak to them when they are dealt with. I am sure they have been circulated for some months now.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STEFANIAK (Minister for Education and Attorney-General) (8.19): Mr Speaker, I seek leave to move the amendments circulated in my name together .

Leave granted.

MR STEFANIAK: I move the amendments circulated in my named *[see schedule 2 at page 3112]*.

As I indicated, the amendments are minor and technical in nature. The amendments to the Children and Young People Act deal with the withdrawal of proposed section 439A on notifications, as this has been passed under the Children and Young People Amendment Act 2001.

The amendments to the Consumer Credit (Administration) Act 1996 are technical in nature and were suggested by the Parliamentary Counsel's Office to correct errors in an earlier amending act.

Cabinet previously agreed to amendments to the Sale of Motor Vehicles Act 1977 to allow a broader range of matters to be taken into account in assessing suitability to participate in the industry and to establish a new disciplinary process. One of the

proposed changes is the replacement of "director" with a broader concept of "executive officer". While "executive officer" has a settled meaning in corporation law, it would be useful in assisting readers to include examples in the definition in the bill based on its usage under corporation law.

In addition, I propose a government amendment to remove the now redundant term "director" from the dictionary.

The other proposed amendments to section 57 are technical and consequential to other amendments proposed in the bill.

The Motor Trades Association expressed some concern about the width of the new section 71, which deals with determining whether a person is suitable or unsuitable to be an individual licensee or a director of a corporate licensee. This section provides that a person is unsuitable to participate in the industry if the person has contravened the act, whether or not this amounts to an offence.

The MTA argued that the provisions should be limited to circumstances where a dealer brings the industry into disrepute through repeated failure to comply with the act. The MTA's attention has been drawn to new subsections 71 (6) and (7), which deal with how the discretion is to be exercised and which should mean that a breach would normally be unlikely to result in an adverse decision as a result of an isolated event, where the dealer cooperated with an investigation of a breach or where the dealer provided restitution for any loss caused by the breach.

The amendments to the Legislation Act 2001 and the Legislation (Consequential Amendments) Act 2001 are technical in nature in order to correct minor errors. For example, the phrase "current drafting practice" is substituted with "current legislative drafting practice".

Under item 1.1618 of the Legislation (Consequential Amendments) Act 2001, section 10, on regulation-making power of the executive, should be renumbered as section 14. Under item 1.2913, a drafting error is corrected to put the correct title of section 15X as "Minister's powers in relation to draft nature conservation strategy".

Finally, the government amendments to the Referendum (Machinery Provisions) Act 1994 are also meant to correct technical errors without making any substantial changes.

Amendments agreed to.

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

Bill, as amended, agreed to.

Jurisdiction of Courts Legislation Amendment Bill 2001

Debate resumed from 8 March 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (8.23): The Attorney-General presented this bill on 8 March 2001 to amend four acts that are part of national regulatory schemes. The schemes were found by the High Court in the case of Re Wakim to be constitutionally invalid. This bill is designed to overcome the effect of the court's decision.

The Commonwealth passed corresponding amendments during 2000, and this bill ensures that the ACT remains part of the national scheme. There are no direct policy changes in the amendments. They are of a largely technical nature. The Labor Party is happy to support the bill.

MR STEFANIAK (Minister for Education and Attorney-General) (8.24), in reply: I thank Mr Stanhope for his comments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STEFANIAK (Minister for Education and Attorney-General) (8.24): There are a couple of amendments. They have been circulated for some time. There are two small drafting errors in the amendments to the Gas Pipelines Access Act 1998. There is a cross-referencing inconsistency, and an unnecessary heading has been left in the act. Paragraph 15 (b) of the Gas Pipelines Access Act is removed as it refers to provisions that are being repealed. The heading to division 3 of part 3 is removed, as all the provisions in that division are being repealed. These amendments improve the bill by fixing the errors. They make no change to the effect of the provisions in the bill. I seek leave to move them together.

Leave granted.

MR STEFANIAK: I move the amendments *[see schedule 3 at page 3117]*.

Amendments agreed to.

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

Bill, as amended, agreed to.

Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill 2001

Debate resumed from 15 June 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR WOOD (8.26): This bill deals with censorship, a subject that often excites a great deal of interest, sometimes anxiety. I do not see much of that in respect of this bill, and not surprisingly. The amendments, as I look at them, are rather arcane. I have not backtracked into federal legislation to make some of the connections that I might need to have made if I were going to do this with great thoroughness.

Once again, we are bringing amendments into our Assembly—this is the second bill of this nature I have had to deal with today—following on uniform legislation around Australia. Censorship is basically a Commonwealth responsibility, and we have uniform legislation.

The measures today bring us into line with changes to the Commonwealth act. The minister has very well spelled out all the details, so I certainly will not repeat them. The changes are sometimes technical. They sometimes just take account of the experience gleaned over the last three or four years. They seem quite sensible and acceptable. It is no wonder there is no excitement about them.

MR STEFANIAK (Minister for Education and Attorney-General) (8.27), in reply: I thank Mr Wood for his comments.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Guardianship and Management of Property Amendment Bill 2001

Debate resumed from 3 May 2001, on motion by **Mr Moore**, on behalf of **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR WOOD (8.28): Mr Speaker, this is a different proposition to the last bill. This is, for me, and I think for all of us, a difficult bill. It asks the question: how paternalistic ought we to be?

Looking at it in a generous way, it aims to protect people who are not perhaps in a position to look after their own interests as well as they might. It is for the protection of people. But I believe it is also for the protection of governments, maybe for the protection of the public purse.

These amendments have arisen out of one case—there is no reference in all the background discussion of any more than that—where the Guardianship and Management of Property Tribunal endeavoured to make decisions on behalf of one person. That person was certainly well enough in control of his affairs to see that the matter was appealed to the Supreme Court of the ACT, where he won. The steps taken by the tribunal were overturned.

It is an interesting case. This man, I believe, was suffering from some form of mental illness, and he also had an accident and had quite a reasonable amount of cash from a compensation payout. The tribunal determined that they knew best what this man should do with his money. He apparently said that he was going to invest it. There was some suggestion that it may have been in places where you lose money fairly quickly. I have no doubt the indications he gave were that the money would not be wisely spent, and the tribunal wanted to protect him and prevent him from making decisions that would lose money.

Is there much wrong with that? I do not know. I am in a bind here. I am not sure yet which way to go. I am holding on for the moment, because I think Ms Tucker wants to adjourn this debate for another day. On that basis I do not have to say right now how the Labor Party will vote. It is one of those difficult ones. How far do we go to protect the rights of a citizen?

There is no question but that this citizen, as reported—accurately, I expect—used his money very badly. In the end the state will have to pick up a good deal of expense, because the compensation payout has gone. I can take you to many people around the community who disposed of their money very badly. Do not point to me, Mr Speaker.

MR SPEAKER: I was circling the Assembly.

MR WOOD: Are we not also protecting the government in this case? Where are our responsibilities? It is very difficult. I am not sure that these amendments make much basic difference to the ability of the tribunal to make decisions like that. These amendments are technical to avoid the problem that occurred and to remove some confusion. If the Assembly voted this bill down, I do not know that it would really change things very much.

It is a difficult one, and I do not mind another day or two to consider it. Ms Tucker, it seems, wants to do some more talking to people. In the talking I have done, other issues have been raised. One was that the tribunal could be a little more user friendly. I had a briefing which was very solid and very good, and I have no doubt that the tribunal believes that it hears everybody and gives everybody an equal chance and they are very careful to see that everybody is thoroughly heard. Yet I get comment that they are not really user friendly. Bodies can be like that, no matter how hard they try.

There is a feeling out there that sometimes decisions made in the tribunal are against the interests of carers, for example—family members and others—who have been taking a line different to the one that the tribunal ultimately settles on.

I will support Ms Tucker's proposal to adjourn the debate. I certainly had a position to put to the Assembly tonight if we had voted on this earlier. I knew which way we would go, but I am happy for a little bit longer to think about this issue.

MS TUCKER (8.33): I have listened with interest to Mr Wood—

Mr Wood: You cannot adjourn it and speak.

MS TUCKER: We are going to the end of the in-principle stage.

MR SPEAKER: Order! I understand that we will complete the in-principle stage and then the debate will be adjourned. Is that right, Ms Tucker?

MS TUCKER: That is right. I was going to adjourn it at clause 1 of the detail stage.

Mr Wood: I do not want to go past the in-principle stage.

MS TUCKER: So you do not want to do it now at all?

Mr Wood: Go on.

MR SPEAKER: Proceed, Ms Tucker.

MS TUCKER: I am interested in what Mr Wood said. The reason I want to adjourn this debate in the detail stage is that I have some amendments which I want people to have time to look at. I also want to talk to a few more groups about some of the wording and let other members have that opportunity. Mr Wood has raised some further issues which we have also looked at, although we have come to the conclusion that we are reasonably comfortable with what is in this legislation, apart from those parts we will be amending.

I acknowledge that there is a danger that we may end up with a more paternalistic approach. However, I understand that this change is based on a discussion paper which was circulated to a number of groups, so I am hoping that it is reasonable. We can always re-evaluate the position if this Assembly hears of concerns.

The main change introduced by the bill, as we understand it, is in the concept of a person's interests as distinct from their wishes. The distinction is based largely on a recent Supreme Court case, as Mr Wood said, in which a person with a disability caused in an accident wished to spend his compensation payout. The tribunal supported the decision not to allow access, but this was overturned on the basis that the law discussed a person's wishes.

The bill therefore introduces a definition of "interests" that includes protection from physical or mental harm, prevention of a physical or mental deterioration of the person, and the ability of the person to look after himself or herself, live in the general community, and maintain their preferred lifestyle except where it is harmful to

themselves. It does seem to be a reasonable precaution in some ways, but I am quite happy to look at it again if it becomes apparent that there are real problems with it.

MR STEFANIAK (Minister for Education and Attorney-General) (8.36), in reply: I can see where Mr Wood is coming from. I remember that when I was going through this initially I had some similar thoughts, but I think on balance it is important legislation. I think his fears can be somewhat allayed by the facts.

The amendments standardise the test to be applied in determining whether a person requires a guardian or a manager. The test will be the same for both and based on the represented person's decision-making capacity. A person may have a guardian or a manager appointed if he or she has impaired decision-making ability. This means the person's decision-making ability is impaired due to a physical, mental, psychological or intellectual condition or state, whether due to a diagnosable illness or not.

For a guardian or manager to be appointed, the test will be that the represented person has impaired decision-making capacity in relation to his or her health and welfare, in case of a guardian, or in relation to his or her property, in the case of a manager. During this incapacitated state, decisions will need to be made in relation to the person's health, welfare or appropriate property matters if there is a likelihood that the person will take some sort of action which could result in unreasonable risk to the person's health, welfare and property and if, without a guardian, the person's needs will not be met or their interests will be adversely affected to a significant degree. So it is very much about the person. Mr Wood asked whether it is about protecting the government. No, it is to assist the person.

The bill clarifies the principles to be followed by a person charged with making decisions on behalf of an impaired person. The basic premise is that the protected person's wishes, as far as they can be ascertained in making the decision, should be given effect to. But if by carrying out the person's wishes the person's welfare and interests would be significantly adversely affected, then the wishes should be carried out as far as possible without significantly harming his or her welfare or interests.

If a person's wishes cannot be so carried out or cannot be ascertained, then the decision-maker is to act according to the person's interests. These include protecting the person from physical or mental harm, maintaining the person's preferred lifestyle, promoting the person's financial security and preventing the person's finances from being wasted or the person from becoming destitute.

There may be some concern that the scope for deciding that a person has impaired decision-making ability is quite wide, given that the condition or state of a person can be due to a diagnosable illness or otherwise. However, there are a number of conditions that are not diagnosable as illnesses as such but nevertheless can result in impaired decision-making ability. For example, a severe brain injury caused by a motor vehicle accident may not be classified as a diagnosable illness, but I am sure that members would agree that this could result in an impaired ability to make decisions.

It is also foreseeable that a guardianship or management order could be required at some stage. It is therefore imperative that such people are not excluded from the ambit of guardianship and management legislation. Confining the provision to diagnosable illnesses only and removing such persons from the effect of the bill is not a viable option.

Further, the normal process in assessing an application for a guardianship or management order would be for the Guardianship and Management of Property Tribunal to seek medical advice on the person's condition, as medical opinion is critical to the tribunal's decision. The provision as it stands simply enables the doctor giving the opinion the option not to have to identify a recognised diagnosable illness. The provision gives the tribunal scope to make an appointment order when the doctor cannot testify to mental illness but can testify to a condition impairing decision-making ability.

It must also be remembered that the tribunal does not make guardianship and management orders lightly. The tribunal is made up of the Chief Magistrate, a lawyer and persons who are trained or experienced in relation to people who, because of a physical, mental, psychological or intellectual condition, need assistance or protection from abuse, exploitation or neglect.

The tribunal is required to take various matters into account before making an order. They include the views of the Community Advocate, and the Public Trustee if property is involved, and evidence of the person's medical condition. The tribunal may inform itself on any other relevant matter in such manner as it thinks fit.

Mr Wood: Like family?

MR STEFANIAK: Yes, I imagine. The Community Advocate prepares a report in relation to every person who appears before the tribunal. She also attends the tribunal at each sitting. These safeguards serve to protect the interests of the person subject to guardianship and/or management orders. Likewise, the application of a consistent test for guardians and managers based on the person's decision-making capacity will complement the safeguards already in place.

Finally, uniformity with other jurisdictions is a relevant factor as it will ensure a consistent approach and ease the recognition of orders by other jurisdictions.

The government will certainly be consenting to Ms Tucker's request for an adjournment of clause 1. I thank her for giving us the amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1.

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

Adjournment

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

That the Assembly do now adjourn.

Assembly adjourned at 8.42 pm

Schedules of amendments

Schedule 1

Food Bill 2001

Amendments circulated by Ms Tucker

1
Schedule 2
Proposed new parts 2.1A and 2.1B
Page 113, line 12—

After part 2.1, insert the following new parts:

Part 2.1A Animal Welfare Act 1992

[2.1A] New sections 9B and 9C

insert

9B Hens kept contrary to law—sale of eggs

(1) A person must not sell eggs produced by a hen kept in a way that is an offence against a Territory law or that would be an offence against a Territory law if the hen were kept in the Territory.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) This section does not apply to the sale of a product in which hen eggs are an ingredient.

9C Labelling of egg packages

(1) A person must not sell hen eggs unless the eggs are packaged in accordance with the egg labelling requirements.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) For this section, the ***egg labelling requirements***, for hen eggs, are—

(a) that the packaging for the eggs displays the relevant expression in schedule 1 indicating the conditions under which the hens that produced the eggs are kept; and

(b) that the relevant expression is followed by the word ‘eggs’; and

(c) that the relevant expression is conspicuously displayed on the packaging in standard type of at least 6mm high.

[2.1B] Dictionary, new definition of *hen*

insert

hen means a domestic fowl (Gallus gallus).

[2.1C] New schedule 1

insert

Schedule 1 **Production of hen eggs**

(see s 9C)

Part 1.1 **General**

1 Meaning of *code*

In this schedule:

code means the *Model Code of Practice for the Welfare of Animals: Domestic Poultry*, made by the Animal Welfare Committee of the Standing Committee on Agriculture and Resource Management, as in force from time to time.

Part 1.2 **Conditions under which hens are kept**

column 1 **item**	**column 2** **relevant expressions**	**column 3** **conditions under which the hens that produced the eggs are kept**
1	battery cage	Hens are kept in cages— (a) without access to litter, perch or nest; and (b) in accordance with the stocking level and other requirements for cage systems under the code.
2	barn	Hens are kept— (a) with the freedom and capacity to socialise, to move freely within the shed, to stretch, perch, nest, dust bathe, flap wings and fly; and (b) with adequate perching facilities and nests available to birds within the shed to accommodate the needs of all hens; and (c) with half the housing kept under litter; and (d) in accordance with the stocking level and other requirements for deep litter systems on a single level under the code.
3	aviary	Hens are kept in a shed— (a) with the freedom and capacity to socialise, to move freely within the shed, to stretch, perch, nest, dust bathe, flap wings and fly; and (b) with adequate perching facilities and nests available to birds on a number of levels within the shed to accommodate the needs of all hens; and

column 1 item	column 2 relevant expressions	column 3 conditions under which the hens that produced the eggs are kept
		(c) with half the housing kept under litter; and (d) in accordance with the stocking level and other requirements for deep litter systems under the code with the allowance of a number of additional levels of nesting and perching space.
4	free range	Hens are kept— (a) with continuous daytime access to outdoor runs; and (b) with access at all times to indoor litter, perches and nests; and (c) with adequate protection at all times from predators and the elements; and (d) in accordance with the stocking level and other requirements for range systems under the code.

Part 2.1B Animal Welfare (Amendment) Act 1997

[2.1D] Section 2

omit

Food Act 1992, section 24A (1)

substitute

Animal Welfare Act 1992, section 9B (1)

Schedule 2

Justice and Community Safety Legislation Amendment Bill 2000

Amendments circulated by Attorney General

1
Clause 2
Proposed new subclauses (1A) to (1C)
Page 2, line 9—

After subclause (1), insert the following new subclauses:

(1A) The amendments of the *Legislation (Consequential Amendments) Act 2001* commence immediately after the commencement of the *Legislation Act 2001*, section 18 (ACT Legislation register).

(1B) The amendments of the *Referendum (Machinery Provisions) Act 1994* commence on the commencement of the *Legislation Act 2001*, section 18 (ACT Legislation register).

(1C) The amendments of the *Consumer Credit (Administration) Act 1996* are taken to have commenced on 29 May 2001.

2
Schedule 1
Proposed amendments of the *Children and Young People Act 1999*
Amendments 1.2 and 1.3
Page 4, line 1—

Omit the proposed amendments.

3 Schedule 1
Proposed new amendments of the *Consumer Credit (Administration) Act 1996*
Proposed new amendments 1.3A to 1.3C
Page 4, line 18—

Before amendments of *Crimes Act 1900*, insert the following new heading and amendments:

Consumer Credit (Administration) Act 1996

[1.3A] Subsection 118 (4)—

Omit "officer", substitute "investigator".

[1.3B] Section 122—

Omit "officer", substitute "investigator".

[1.3C] Section 144—

Omit the section, substitute the following section:

144 Expiry of s 143 and this section

(1) Section 143 and this section expire 1 year after they commence.

(2) To prevent doubt, it is declared that the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies to section 143.

4
Schedule 1
Proposed new amendments of the *Legislation Act 2001* and *Legislation (Consequential Amendments) Act 2001*
Proposed new amendments 1.6A to 1.6H
Page 4, line 28—

After the amendment of the *Crimes (Forensic Procedures) Act 2000*, insert the following new headings and amendments:

Legislation Act 2001

[1.6A] Sections 60 (2) and 114—

Omit "current drafting practice", substitute "current legislative drafting practice".

Legislation (Consequential Amendments) Act 2001

[1.6B] Schedule 1, part 44—

Omit the part.

[1.6C] Schedule 1, amendments 1.1026 and 1.1027—

Omit the amendments, substitute the following amendments:

[1.1026] Section 49 (2) (a)

omit

, whether under this Act or the regulations,

[1.1027] Section 49 (2), new note

insert

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.6D] Schedule 1, amendments 1.1035 to 1.1037—

Omit the amendments, substitute the following amendments:

[1.1035] Regulation 14 (8) (b) (ii) and (ix)

omit

[1.1036] Regulation 14 (8) (b) (iii) and (viii)

renumber as regulation 14 (8) (b) (ii) to (vii)

[1.1037] Regulation 14 (8), new note

insert

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

[1.6E] Schedule 1, amendment 1.1618—

Omit the amendment, substitute the following amendment:

[1.1618] Section 12

substitute

12 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.6F] Schedule 1, amendment 1.2880—

Omit the amendment, substitute the following amendment:

[1.2880] Section 90 (5) (d)

omit

in the prescribed form

[1.6G] Schedule 1, amendments 1.2913 and 1.2914—

Omit the amendments, substitute the following amendment:

[1.2913] Section 15X

omit everything before paragraph (a), substitute

15X Minister's powers in relation to draft nature conservation strategy

(1) If a draft nature conservation strategy is submitted or resubmitted to the Minister for approval, the Minister must—

[1.6H] Schedule 1, amendment 1.2933—

Omit the amendment, substitute the following amendment:

[1.2933] Part 3, division 5

omit

5

6

7
Schedule 1
Proposed new amendments of the *Referendum (Machinery Provisions) Act 1994*
Proposed new amendments 1.60A to 1.60D
Page 14, line 14—

After the amendment of the *Powers of Attorney Act 1956*, insert the following new heading and amendments:

Referendum (Machinery Provisions) Act 1994

[1.60A] Section 17 (3) (b)—

Omit the paragraph.

[1.60B] Section 17 (3) (c)—

Renumber as section 17 (3) (b).

[1.60C] Schedule 1, modification 1.17—

Omit the modification, substitute the following modification:

[1.16] Section 223, definition of *participant*

substitute

participant, in a referendum, means a person by whom, or with the authority of whom, referendum expenditure in relation to a referendum is incurred.

[1.60D] Schedule 1, modifications 1.23, 1.28 and 1.29—

Omit the modifications.

6
Schedule 1
Proposed amendments of the *Sale of Motor Vehicles Act 1977*
Amendment 1.63
Page 15, line 5—

After "***determined fee***,", insert "***director***,".

8
Schedule 1
Proposed amendments of the *Sale of Motor Vehicles Act 1977*
Amendment 1.130
Proposed new section 47
Page 24, line 16—

Add at the end the following new subsection:

(3) The registrar must tell the licensee in writing of the cancellation of the licence.

9

11
Schedule 1
Proposed amendments of the *Sale of Motor Vehicles Act 1977*
Amendment 1.135
Page 27, line 23—

Omit the amendment, substitute the following amendments:

[1.135] Paragraphs 57 (1) (j) to (n)—

Omit the paragraphs, substitute the following paragraphs:

(i) under section 47 to cancel a licence of a corporate licensee;

(j) under section 48A (4) to take action in relation to a licensee or licence under the subsection;

[1.135A] Paragraphs 57 (1) (p) and (q)—

Renumber as paragraphs 57 (1) (k) and (l).

[1.135B] Subsection 57 (3)—

Omit "48 (1)", substitute "47 (3), 48A (5)".

12
Schedule 1
Proposed amendments of the *Sale of Motor Vehicles Act 1977*
Amendment 1.159, proposed new definition of *executive officer*
Page 32, line 28—

Insert the following examples:

Examples

1 A director of the corporation

2 An employee of, or a person associated with, the corporation who is involved in activities that involve policy and decision making, related to the business affairs of the corporation, to the extent that the consequences of the formation of the policies, or the making of the decisions, may have some significant bearing on the financial standing of the corporation or the conduct of its affairs.

Schedule 3

Jurisdiction of the Courts Legislation Amendment Bill 2001

Amendments circulated by Attorney General

1
Schedule 1
Part 2
Proposed new amendment 1.11A
Page 6, line 23—

After amendment 1.11, insert the following amendment:

[1.11A] Section 15

substitute

15 Jurisdiction of Federal Court

Jurisdiction is conferred on the Federal Court with respect to civil and criminal matters arising under the *Gas Pipelines Access (A.C.T.) Law*.

2
Schedule 1
Part 2
Amendment 1.12
Page 6, line 24—

Omit the amendment, substitute the following amendment:

[1.12] Part 3, division 3

omit