DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

30 August 2001

Thursday, 30 August 2001

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

Absence of Clerk

Mr Speaker informed the Assembly that, due to the absence of the Clerk, the Deputy Clerk would act as Clerk.

Petitions

The following petitions were lodged for presentation:

Residential development—section 79, block 3

*By **Mr Corbell,** from 128 residents*:

To the Speaker and members of the Legislative Assembly for the Australian Capital Territory

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the Department of Urban Services is intending to release and sell a block of land, Section 79, Block 3 adjacent to Giralang Primary School, on the west corner of Canopus Street and Menkar Close. These residents also note that there is as yet scant information on the impact on the environment of the school of building multi-storey residential dwellings on this site.

Your petitioners therefore request that the Assembly, as an urgent priority, review the release and sale of this land for the purpose residential development, and move immediately to:

- more thoroughly assess the likely effects on the school and its students and families of building residences on Section 79; and

- consult widely with the school users and other community members on this proposed sale and any likely development.

Gungahlin Drive extension

*By **Mr Hird**, from 213 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:

The support of the Gungahlin and Belconnen Residents for the Recommendations of the Standing Committee on Planning and Urban Services in relation to the Gungahlin Drive Extension inquiry.

Your petitioners therefore request the Assembly to:

Accept the recommendations of the Standing Committee on Planning and Urban Services and proceed with the construction of the Gungahlin Drive Extension as a matter of urgency.

Fireworks

*By **Ms Tucker**, from 25 residents*:

Petition—stop the suffering, ban fireworks now!

To the Speaker and members of the Legislative Assembly for the Australian Capital Territory

The petition of certain residents of the Australian Capital Territory draws on the attention of the Assembly: that Fireworks in NSW, SA, Vic, WA and Qld, are banned because they are a danger to the community and its animals.

Your petitioners therefore request the Assembly to: Immediately ban the sale of over the counter fireworks in the ACT.

Memorial park at Noakes Place, Charnwood

*By **Ms Tucker***, from 534 residents:

To the Speaker and members of the Legislative Assembly for the Australian Capital Territory

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that a memorial park is now, after more than seven years, being erected on the site of the house fire in Noakes Place Charnwood where 3 children tragically lost their lives. Despite considerable discussion with the relevant authorities, approval has not yet been given for the erection of a small amount of play equipment as requested by the family of the deceased children. The family's request is that an active and 'happy place', that includes a swing or a slide, be created in memory of these children.

Your petitioners therefore request that the Assembly, as an urgent priority, approve the inclusion of a swing or slide in the memorial park that is being erected in Noakes Place, Charnwood.

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

Heritage Bill 2001

Mr Smyth, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by the Deputy Clerk.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.33): Mr Speaker, it gives me immense satisfaction to bring to the Assembly today a bill for the reform of the ACT's heritage legislation. The Heritage Bill 2001 sets out new provisions relating to the ACT Heritage Council, the ACT heritage register for places and objects of heritage significance to the ACT community, and offence provisions and incentives for the protection of our heritage.

On 2 June 2001 I released for community consultation the discussion paper *ACT heritage legislation reform*. This discussion paper was based on the outcomes of a review of the heritage provisions within the Land (Planning and Environment) Act. This review was part of a larger review of the heritage function in the ACT. The review has resulted in major improvements as it has been progressively implemented over the last two years.

Mr Speaker, the consultation process elicited more than 30 submissions, including those from professional groups such as the Royal Institute of Architects, the Royal Australian Planning Institute and the ACT branch of the National Trust. Many thoughtful individual responses were received as well. Consultation included stakeholder workshops and expert focus groups. The model for protection of heritage in the ACT, set out in the discussion paper, has been substantially refined as a result of the consultation process and the new model is reflected in the provisions of the Heritage Bill.

I believe that the new model on which the bill is based is forward looking and well suited to the expectations of the ACT community. At the same time, protection of heritage in the ACT will be at the leading edge of Australian practice.

I would now like to look at a few important features of the bill. This bill is stand-alone legislation, separate from the land act. It also replaces the Heritage Objects Act 1991. A separate heritage act will strengthen the profile of heritage, in keeping with community expectations and interest in heritage issues. The bill allows for the appointment of a Heritage Council and defines its functions as to identify, assess, protect, conserve and promote places and objects in the ACT with heritage significance. The Heritage Council will be composed of experts in heritage disciplines and community representatives.

The proposed ACT heritage register provides a better basis for recognition and registration of a full range of ACT heritage places and objects through a simple, accessible registration process. Nomination for inclusion in or removal from the heritage register will be open to anyone, including the Heritage Council. Nominations are made to the minister, who is required to seek the advice of the Heritage Council but is not obliged to act on it.

If the minister considers that the nominated place or object has heritage significance, he may declare it to be provisionally registered, which provides it with the full protection of a registered object or place. There then follows a process of notifying interested persons, calling for public submissions and seeking further advice from the Heritage Council. The minister's final decision to declare that the place or object does have heritage significance, and for it to be registered, is a disallowable instrument.

The best aspects of the current regime for conserving heritage are to be retained, notably close integration with the planning and development approval process and single point public interaction for development applications through Planning and Land Management. Provisions maintaining this close integration will be contained in consequential amendments to the land act which will deal with the necessary changes. It is the government's intention that the statutory referral of development applications from the planning authority to the Heritage Council be retained, with the council providing advice on conservation measures for registered places.

The bill proposes controls which allow for best practice management and maintenance of heritage places and objects. The range of measures available for enforcement will be significantly improved. The heritage offences and penalties will be similar to those set out in the Environment Protection Act 1997.

Mr Speaker, the bill provides for the minister to intervene in timely and effective ways and make orders to protect heritage values on both registered and unregistered places. Provision for heritage conservation incentives for owners and managers of heritage places is proposed through heritage agreements. Heritage agreements may be used to provide financial and other assistance, as occurs in other jurisdictions.

The major driver of the changes has been the need to streamline and speed up the registration process. Under the new system proposed in the bill, the present time frame of a year or more for completing a registration will be reduced to a maximum of five months from provisional registration to final registration and will be a single decision-making process. This will be achieved by no longer requiring the preparation of specific requirements for conservation, written as development controls, at the time of registration. Experience has shown that specific requirements can be unmanageably prescriptive and that they rapidly become out of date and may become inconsistent with other more current planning and development controls. This has become very clear in some AAT cases.

In the absence of specific requirements for conservation, there will be no need for a variation to the Territory Plan for registration of places and objects, and registration can be based solely on heritage significance. The current draft variation to Territory Plan No 173 for heritage residential precincts recently released by PALM, which addresses garden city heritage planning, provides controls for the majority of areas undergoing development change. However, formal development controls may still be required for other heritage places—for example, if further heritage precincts or individual places are registered. The process for introducing development controls for heritage places will follow that which is currently used, involving a variation to the Territory Plan. These provisions will be dealt with in the consequential amendments to the land act.

Mr Speaker, any new controls will be modelled on the garden city heritage precinct controls. For those properties without specific controls, the council will publish guidelines on the range of development activities likely to be consistent with heritage values. The proposed registration process will provide the same level of certainty to owners of heritage properties as it provides under the current system.

Where development is proposed for a place on the register, the Heritage Council will provide advice in a way that is more responsive and based on current community views and expectations. The advice provided, in this case to the minister, would be based on published guidelines that are regularly updated, as well as integrating heritage advice with other planning processes such as master plans. This system is more akin to modern heritage systems in other states and territories. It is simple, effective and responsive to community views. At the same time, it draws on the expertise of the Heritage Council and is integrated with the planning process.

Presentation of this bill fulfils the commitment made to this Assembly to reform the ACT's heritage legislation. Members should consider this bill as an exposure draft. While there may not be the opportunity to debate the contents of the bill during this Assembly, it does provide a clear picture of this government's intention.

In addition to the Heritage Bill 2001, reform of the ACT's heritage legislation will require amendments to the land act. These amendments will need to remove the heritage provisions from the land act. The amendments will provide the necessary linkages between the planning and development provisions in the land act and the heritage legislation to ensure that the integration of development applications and development controls with heritage provisions is retained.

I am happy to arrange for a full briefing for any member of the Assembly on the intricacies of the bill. I believe that we have successfully provided a system that will ensure the protection of the ACT's heritage into the future. Mr Speaker, I move:

> That this bill be agreed to in principle.

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

Executive business

MR MOORE (Minister for Health, Housing and Community Services) (10.41): Mr Speaker, I seek leave to bring Executive business order of the day No 1 on for debate forthwith and prior to Assembly business.

Leave granted.

MR MOORE: I move:

> That Executive Business Order of the Day No 1 relating to the Payroll Tax Amendment Bill, be called on forthwith.

Question resolved in the affirmative.

Payroll Tax Amendment Bill 2001

Debate resumed from 28 August 2001, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (10.42): The opposition will be supporting this bill, which my office has been negotiating and discussing with appropriate officers. The bill is necessary because changes to the Commonwealth trainee and apprenticeship scheme 1998 have caused some ambiguity among employers about the definition of trainees and/or apprentices for payroll tax exemption purposes. Unfortunately, some employers have used the ambiguity to claim payroll tax exemptions beyond the original intent of the legislation. I understand that in one case an employer has claimed an entire workforce of 450 as trainees and therefore as being eligible for payroll tax exemption. Of course, that is way beyond the spirit of what was intended to encourage traineeships and apprenticeships.

The legislation was due to commence on 1 October 2001 and this could have allowed a window of opportunity for employers to take advantage of the ambiguity. But last night the government agreed to put forward an amendment that will change the effective date to 1 September.

The bill will give the minister power to approve training courses that would effectively define trainees as "new starters". While in the majority of cases training courses could comply with industry-based training and a nationally agreed structure defined by the Australian National Training Authority, ANTA, the minister could approve training outside this structure. We think there is probably work to be done in relation to the bill in that particular area. However, the bill is structured to allow training to be approved by disallowable instrument, so that will have to do for the time being.

The financial implications could run into millions of dollars, particularly if word got out and payroll tax collections in the ACT were affected. So it is quite obvious that this bill must be supported. I remain concerned about the limited time that we have had to digest the bill and consider the appropriate alternatives of how the dimensions of the problem should be addressed. Notwithstanding the limited time available to us, we will say that the bill is adequate to do the job. We will support the bill and the amendments.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.46), in reply: Mr Speaker, I thank the opposition for its support of this bill. It is unusual for a bill of this magnitude with such serious implication for revenue to be dealt with in such a short space of time, but I think this course of action is warranted in these circumstances. As Mr Quinlan has noted, the effect of the bill is to restore the original policy intent behind payroll tax exemptions and provide a way to encourage employers to take on genuine trainees and apprentices.

The bill will provide certainty to employers as to which classes of employees are eligible for a payroll tax exemption and, of course, most importantly, it will prevent the leakage of perhaps as much as $5 million in annual payroll tax revenue. Mr Speaker, for those reasons I think it is important that we deal with this legislation today. I will make some comments about the amendment when we reach the detail stage.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.47): Mr Speaker, I seek leave to move the amendments, circulated in my name, together.

Leave granted.

MR HUMPHRIES: I thank members. Mr Speaker, I move amendments Nos 1 and 2 *[see schedule 1 at page 3903]*.

The effect of the amendments is to alter the commencement date from 1 October 2001 to 1 September 2001.

Members will be aware that payroll tax is basically collected on a monthly basis, and the provisions of the legislation therefore need to be such as to allow for change to occur at the beginning of the month rather than some other date. Of course, this being 30 August, we need to make a decision to bring down the curtain on these distortions in the payroll tax system by Saturday, 1 September. The amendment has the effect of bringing forward that commencement date from 1 October to 1 September. Should it subsequently be found that the claims for refunds of payroll tax must be upheld, the earlier commencement date will limit projected revenue losses for the current financial year to only two months rather than three months.

Mr Speaker, I thank Mr Quinlan for advance notice of the opposition's support for this legislation and I table the supplementary explanatory memorandum to the bill.

Amendments agreed to.

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

Bill, as amended, agreed to.

Planning and Urban Services—Standing Committee
Report No 80

MR HIRD (10.48): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report 80—The National Competition Policy Review of ACT Taxi and Hire Car Legislation, dated 29 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, I am pleased to table this unanimous report. This complex subject deals with people's livelihoods and therefore it is very important that we as a committee get it right.

The committee conducted an exhaustive inquiry and took evidence from nearly all hire car operators as well as from government officials. The committee also held discussions with government officials in Queensland and Northern Territory, and with hire car operators in Darwin. We learnt a great deal.

Our report sets out all of the evidence in a very clear fashion. Our basic conclusion is that the local hire car industry needs a period of stability in which to plan and consolidate its future. We do not consider that deregulation is appropriate at this time. Indeed, the industry is already deregulated, as can be seen from the operation of New South Wales hire cars in our local market. Also, great changes to Comcar arrangements have seriously affected the viability of our local operators and their livelihoods as small business operators within the territory.

However, Mr Speaker, our report states that if a future government decides to go down the path of further deregulation, then there needs to be a fair and equitable transition process involving appropriate compensation to existing licence holders. This has been the experience in other jurisdictions, namely the Northern Territory. From what we saw in the Northern Territory, I would err on the side of caution. The industry up there is not functioning as well as it was before it was deregulated.

Mr Speaker, we have made a number of recommendations which are intended to improve the industry. In an effort to improve the viability of the industry, we recommend that the government liaise with the Commonwealth government in an effort to improve Comcar arrangements; that no new New South Wales licence holders be permitted to operate in the territory at this time; and that hire cars must be permitted to rank at the Canberra Casino.

In an effort to clean up the industry, we recommend that distinctive and clearly visible hire plates be fitted to all hire cars doing hire work; that advertisements for hire car services include the licence and other permit numbers so that everyone can see whom they are dealing with—in other words, if a hire car operator wishes to advertise in the *Yellow Pages*, he or she will need to indicate these details; and that all vehicles carry appropriate insurance, meet safety standards and inform clients of the cost of hire before travel commences.

We address the issue of restricted hire vehicles in our recommendations 11 and 12. This has been a vexed issue in our inquiry but I believe we have got it right in our recommendations.

I would like to thank all those that contributed to our deliberations. I would particularly like to thank the hire car industry in the ACT, Queanbeyan and the Northern Territory. I would like to thank Minister Smyth for allowing his officers to assist the committee in

its deliberations. I would also like to thank Mr Rugendyke and Mr Corbell for their assistance. This is, as I said at the beginning of my remarks, a unanimous report and I commend it to the house.

MR SPEAKER: Before I call Mr Hargreaves, I would like to recognise the presence in the gallery of the first of two groups from Torrens Primary School, year 6. Welcome to your Assembly.

MR HARGREAVES (10.54): Mr Speaker, I am delighted to see someone from the glorious electorate of Brindabella visit us, and I am sure Mr Osborne is absolutely tickled pink.

MR SPEAKER: There must be an election coming up.

MR HARGREAVES: There is an election coming on. Unfortunately for us all, Mr Speaker, nobody in the group, bar one, can vote.

Mr Speaker, I rise to make some comments on this report. I am absolutely delighted to see the report. I attended the public meetings of the committee and I heard some stories that were told by people who would be affected by any changes. We had the opportunity to look into their eyes. We saw fear in those eyes, and this really did affect each and every member of the committee. I want to place on the record my appreciation of those people having the courage to come to a daunting event such as an Assembly committee meeting and bear their souls. I think that was a big thing for them to do.

Mr Speaker, I would like to go through a couple of the recommendations. Many of them speak for themselves. Recommendation 2 is significant. It states:

> … that deregulation of the hire car industry not take place and that no new plates be issued at this time.

Mr Speaker, this recommendation hinges on the fact that there was no reason to deregulate in the first place.

The aim of national competition policy is to do away with legislation which prevents competition from being the order of the day. We have got a number of people competing in the industry already and so, therefore, there is competition. The committee recognised that competition already exists, so there is no real need for the NCP to be applied in that sense. I was pleased to see that the committee has identified that, and I would urge the government to give high priority to recommendation 2. I think the government should drop any intention it has to deregulate the industry.

Recommendation 3 is concerned about what would happen if the government considered that compliance with the NCP agreement required deregulation of the hire car industry. As I have said, the government does not have to do anything because there is already competition in the industry. But I also note that the committee has said, "Well, if you feel that you have to deregulate the industry, then fair competition ought to be the go."

Let me sound a note of warning. When that same thing happened in the milk industry, I believe the people concerned got less than fair compensation. I acknowledge that compensation was given but they got less than what was fair. This issue dragged on for so long that the value of their businesses dropped. Valuation of the worth of their businesses reached an all-time low and quite a number of people went to the wall. That should not have happened.

Let me put on the record that, should compensation be needed, $120,000 is the minimum which ought to be acceptable to reimburse the people for their plates. We need to flag to the government of the day that the compensation price tag is going to be around the $2 million mark. You might even find, Mr Speaker, that it will probably be cheaper just to go away and not do anything.

Recommendation 4 is a good one. I was glad to see it because, whilst the ACT government cannot tell the federal government what to do with its contracts, the committee has recognised that unfair practices seem to have been attributed to Comcar in respect of hiring. This committee recommends very strongly that the ACT government use whatever leverage it has with the federal government to ensure that our hire cars in the ACT have a fair shot at that marketplace. Right now they are being frozen out, and it costs them heaps. I think something like 30 or 40 per cent of income was lost when the Comcar rules were changed. It is a case of taking away the bread and leaving them with the butter.

I was pleased to see recommendation 5. I do not see any need to encourage further hire cars from New South Wales. I would hate to see, for example, a franchise business set up in Queensland putting vehicles on the road in the ACT and saying that it is a local business. That would be just dreadful. I believe that would probably be tacking a little bit close to the wind.

I am pleased to see that it is recommended that the existing three New South Wales hire car operators be permitted to continue to operate in the ACT. This arrangement has been embraced by the industry, so there is nothing wrong with that. But we need not open up that marketplace any further because to do so would be to shrink a quite clearly defined market.

I was thrilled to see the recommendation that hire cars be permitted to rank at the Canberra Casino. If in fact the casino is the success that people say it is and it attracts the high rollers from interstate, these people are not going to necessarily want to get in a cab to go from the casino to the Hyatt or to see the sights. They may want something a little bit more luxurious, they may want special treatment, and I think that this is a good move. If we can have, in a sense, hire car ranks at the airport, why can't we do it at the casino? I think we should. I think it is an excellent recommendation.

I pay credit to the work done by Mr Hird in respect of recommendation 7 and the subsequent recommendations which deal with the identification of the types of vehicles—the RHVs, the hire cars and the vehicles with special plates. Mr Hird pushed for clarity of identification. We all know that the big problem is not the operators in the industry but the cowboys who give it a bad name. If we can clearly delineate the legitimate operators as the people who do the right thing, then hopefully members of the public will not access those cowboys.

Out big concern is not necessarily about the revenue base of the operators but about safety. The people who are properly licensed will have gone through the safety checks. So when your son or daughter hops into a car owned by a licensed operator to go to a formal, you will know that you can expect the same minimum standard of safety as you have with taxis and your own vehicle. If you hop into one of those other vehicles you have no guarantee about safety, you have got no guarantee that the right insurance has been taken out and you have got no idea of the insurance cover should there be an accident. So I am pleased to see that recommendation.

In the attack on the cowboys in this industry, I am pleased to see that all advertising of hire car services must include the licence and other permit numbers held by the advertiser. The only thing I would add to that recommendation, Mr Speaker, is that we need to look at enforcement. The government should pick up this unanimous recommendation and make it law. If you are going to advertise in the newspaper, if you are going to advertise in the *Yellow Pages*, you will have to indicate your licence number and the type of licence you hold. This recommendation will be meaningless if it is unable to be enforced. So the government of the day, whoever it is, needs to act on that particular recommendation.

Mr Speaker, as I said, most of the other recommendations are self-explanatory. Recommendation 13 is that the government provide sufficient resources to enable appropriate monitoring and enforcement. If there was one consistent theme from my discussions with the industry, it was that they are honest people plying an honest trade being adversely affected by cowboys, and there was not enough enforcement. When people in the industry provided photos of the system being abused, they were told, "Sorry, there is nothing we can do about it. We haven't got enough inspectors. We can't prove this, we can't prove that." If we are going to have any kind of regulatory regime at all, we have got to back it up. So I am pleased to see the unanimous encouragement for the government of the day to boost resources.

In summary, this is an excellent report. The people who brought the problem to us said, "Look, we won't interfere with the process. We want to have something fair and reasonable in our small part of the world." I am pleased to see that there was a unanimous approach to protecting people whose livelihood is at risk and saying, "We can improve the system without sending you to the wall in the process." I commend the chair and the secretary on this really good report.

I would like to see the government pick up the recommendations and run with them. The Labor Party will definitely be picking up recommendation 2 if we take office after 20 October. I make that commitment now because there has been uncertainty in the industry. People have been trying to sell their plates and get out of the industry but nobody wants to buy them because of the uncertainty.

We saw what happened with milk deregulation. I am not arguing the rights or the wrongs of milk deregulation, but the uncertainty caused by the passage of time frightened the heck out of everybody within and outside that industry. Mr Speaker, this is what has occurred within the hire car industry, so there is a need for certainty .

The Labor Party is committed to recommendation 2 and, of course, to a number of others. If it were up to us, we would not have to go down the compensation track. These people are professionals in their field and they can work it out for themselves, and we want to leave them alone to do that. However, we need to beef up enforcement, the regulations and the law. I think these recommendations are particularly sensible and I hope they give the industry a lot of encouragement. I commend the report to the Assembly.

MR RUGENDYKE (11.05): I, too, rise to say how pleased I am with this report of the Planning and Urban Services Committee. It seems to me that governments of all persuasions have a desire to be totally enveloped by competition policy. That seems to be the driving force. Indeed, the Freehills report was mainly about competition policy.

The Planning and Urban Services Committee found that there already is a degree of deregulation; that there are apparently enough operators in the ACT at the moment; and that some of the operators are struggling to make a living. There are several niche markets and different types of hire facilities and I think it is important that those niche markets are looked after and that the different aspects of the hire industry are properly regulated. Those niche markets include vintage hire cars and a business that takes people on wine tours. At the moment the operator of the wine tours is restricted to using Tarago vans to take wealthy clients to wineries and the fabulous places in our city. All the operator requires is permission to take clients around our beautiful city in BMWs or Jags—in something much neater than a Tarago van. That niche market, which I do not think impacts on the hire car industry per se, needs to be looked after.

Mr Speaker, I believe that the hire car industry as a whole needs to be more cooperative. There is a lot of conflict within that industry and I would like to see the different parts of it cooperate with each other. I think it is unfortunate and a shame that the industry will always be very divided. However, the industry needs to cooperate if it is to work better and be profitable.

Mr Speaker, the recommendations in our report are important and good. I hope the government picks them up and I look forward to hearing how this report is received by all players in this industry.

MR HIRD (11.09): Mr Speaker, in closing the debate, I want first to briefly acknowledge Mr Hargreaves' assistance and, in particular, his interest in this subject. For some reason there seems to be a misunderstanding in the bureaucracy that there are only 22—or 25 if you add the three cars across the border—cars active in the industry. There are more than 50 vehicles active within this industry. They all take a slice of the pie, and they do it in their own way. That is why we, as a committee, in recommendation 7 came down very heavily in favour of the need for identification to assist the industry and the bureaucracy.

In closing, let me say, not only as the chairman but as the government representative on the committee, that the government is, and has always been, listening to small business. As you would know, Mr Speaker, it is the government's policy to do so. The government is listening, and the government will act, but it has to proceed with due process.

I, and I dare say my colleagues Mr Rugendyke, Mr Corbell and Mr Hargreaves, want this matter resolved. We do not want to see a repetition of what has happened to similar hire car industries in South Australia and the Northern Territory.

Question resolved in the affirmative.

Report No 83

MR HIRD (11.12): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 83—Activity of the Standing Committee on Planning and Urban Services in *2000*-2001.

I move:

> That the report be noted.

Mr Speaker, this is our swan song. This is the final report of the committee. Members will note that this is our 83rd report, and I believe that this is a record for any committee of this parliament. We have got through a tremendous amount of work in the past 3½ years and I believe that we have produced reports of great value to members of this place and to our community in general.

I want to thank my colleagues on the committee for their hard work and dedication during this time. We have not always seen eye to eye, but nearly always we have tried to see the issues fairly and treat the evidence with respect.

Mr Speaker, it is not common for a parliamentary committee to report on its activities in this way. However, I believe that this is an appropriate part of the accountability process of the committee. It provides an opportunity to reflect on what the committee has done and I might suggest that perhaps it could even give a guide to what might be the best committee system for the next parliament.

Mr Speaker, the report is simply set out. It shows that the committee met on 179 occasions, and 57 per cent of our meetings involved public hearings. This immense number of public hearings clearly demonstrates that this committee—my committee—has tried to give our citizens the opportunity to come before the parliament to put forward their views on important issues. The committee's report on the national competition policy review of ACT taxi and hire car legislation, which we were just considering, is an example of this consultation.

Mr Speaker, it is useful to note some of the statistics of the committee's activities. Half of our reports involved variations to the territory plan or a management plan for public land. The consideration of these matters on their own would take up the time of most committees. Half of our reports took less than three months to complete and 22 took over six months to prepare. The shortest time taken to produce a report was five days. By contrast, the report on the Gungahlin Drive extension took 23 months. I might say, Mr Speaker, that during the Third Assembly—that is, the previous Assembly—the question of Gungahlin Drive, or the John Dedman Parkway, was put on hold and

Mr Moore, my predecessor as chair of the committee, said that a decision would be made during this Assembly.

Mr Speaker, in order to manage our heavy workload, we seconded officers on four occasions in the past year. They were a great help. I particularly want to mention Mr Mark Ransom, who brought with him a fine engineering background to help us in our inquiries into traffic warrants; and Mr Matt Gamble, who gave us the benefit of his legal experience in our inquiry into the introduction of the 50 kph speed limit.

Members will see that the third section of our report highlights some specific features of our activity in the past year. I think they make interesting reading and certainly show the diverse range of our activities.

I would like to thank the secretariat. In particular, I would like to thank Kim Blackburn and Judy Moutia; members of the Hansard staff, under the direction of Keith Ryder; and Ray Blundell who, in a professional and helpful way, ensured that the equipment was in place to enable Hansard to assist my committee by providing a transcript of our hearings. I commend the report to the house.

Question resolved in the affirmative.

Finance and Public Administration—Standing Committee
Public accounts committee report No 27

MR QUINLAN (11.16): I present the following report:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Public Accounts Committee Report No 27—The Presentation and Framework of the Capital Works Program, dated 27 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

It is with some regret that I have to advise the Assembly that I think in this exercise I played Jim Hacker to Mick Lilley's Sir Humphrey Appleby. I set out on a personal mission via the committee to try to establish a public works reporting system that was of some use—a closed system in that once a project had entered that system, it remained within that system until it was completed, altered or dispensed with. I want to get a little bit more truth in reporting. I do not want a situation where the same public works are claimed as great initiatives year in year out, or even worse, public works programs are claimed as initiatives and then never followed through. I hope that in the future we will be able to reach that nirvana in the reporting of public works.

We have to get to the stage of having a closed system. To that end, I advise members that the report contains an attachment in which I have set out of the elements of a closed system. Such a system will ensure that we have true accounting, starting with the promise, continuing with the commitment and concluding with the completion, or noting that a particular project has been dispensed with.

This is an important issue. There has been a lot of talk in this Assembly about open and transparent accounting and accountability, and a closed system would play a not insignificant role in ensuring that happens. We will have to continue to press for this outcome if there is to be any form of integrity in reporting on our capital works.

Let me say that since my days as Jim Hacker I have learned a little about how things work around here. I think the next time around, one way or another, whichever side of the house I am on, I may be able to get closer to the system that will in fact ensure there is honest and earnest reporting to the Assembly and to the people of the ACT. I commend this report to the Assembly and to the next Assembly.

Question resolved in the affirmative.

Public accounts committee report No 28

MR QUINLAN (11.20): I present the following report:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Public Accounts Committee Report No 28—Public Access to Government Contracts Act 2000, dated 27 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

When tabling the previous report I referred to the problems that we have seen with reporting, control and documentation. Some remedial action, incorporating a process of the registration of and access to government contracts, and the recording of claims of commercial-in-confidence or confidentiality clauses, has been taken. There has been an attempt to clarify how that process would work.

Again, I think there is still some work to be done on this. One of the most important elements of the process is the willingness of the various agencies within the administration to conform with the spirit of what has been put in place. Again, I have to say that there is a little bit of disappointment in as much as some agencies appear to have been less willing than others to conform with the requirement set out in the reforms. Of course, if the system is incomplete then it will be next to useless.

The report contains some recommendations and those recommendations need to be followed through. Again, what we need to do is create a system under which people and agencies cannot avoid compliance. As with most administrative processes, this system needs an overlay of internal control to ensure compliance and adherence. We just cannot rely on people remembering to do what they are required to do. There is further work to do. I again commend to this Assembly and the next Assembly the recommendations and the observations in the report.

MR MOORE (Minister for Health, Housing and Community Services) (11.23): Mr Speaker, I want to take the opportunity to make a quick comment about this legislation, which originated from a combination of bills that Mr Osborne and I—

Mr Quinlan: I think there were three, actually. Everybody jumped on that bandwagon.

MR MOORE: Mr Quinlan indicates that there were three. There was an attempt to put the three together. I think Mr Osborne was the first to introduce a bill, then I announced my piece of legislation and Mr Stanhope introduced a bill as well.

Mr Speaker, it is appropriate that that legislation should have had the sort of consideration that has been given by the committee. I have to say that I welcome that consideration because, from a quick scan of the report, I think the recommendations will enhance the openness of government, notwithstanding that this is something that most governments would consider a total anathema.

Mr Speaker, I am not aware of the legislation causing any difficulty whatsoever since it has been in place. My view is that it will never cause any difficulty. It is appropriate that this Assembly should have taken yet another step towards an even more open form of government.

Question resolved in the affirmative.

Public accounts committee report No 29

MR QUINLAN (11.24): I present the following report:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Public Accounts Committee Report No 29—Review of the Auditor-General's Report No 4, 2001, Peer Based Drug Support Services Tender—1998, dated 27 August 2001, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

In the overall context, I think this audit report gives the administration of this particular tender a tick. The committee observes that it appears the Auditor found that procedures were generally adhered to, that a conflict of interest was recognised and that the department and the officer involved took appropriate action. Unfortunately, there is no documentation to support the finding that appropriate action was taken. Nevertheless, this is a glimmer of light in terms of adherence to due process, particularly with something as sensitive as this particular tender.

It appears that there is a need to update the guidelines and procedures, some of which were out of date, used out-of-date titles and had not kept up with the administrative arrangements of the day. Mr Speaker, it is with extreme pleasure that I present this report which communicates the Auditor-General's positive assessment of the procedures. I commend the report to the Assembly.

MR MOORE (Minister for Health, Housing and Community Services) (11.26): Mr Speaker, I would like to speak briefly to this report. The officer who was involved in this, and who was somewhat pilloried by the media, has since left the department of

health. I have to say that, in my view, this process played a role in his moving on. I hope that he moves on to bigger and better things. I know that it was a particularly difficult situation and a difficult time for him. I would like to add, as I said at the time, that this is one of the best officers that I have worked with in the department of health, both before I was a minister and while I was a minister.

I am very pleased to see that not only the Auditor-General but now the committee has indicated that that officer acted appropriately and that—

Mr Quinlan: With the qualification on documentation.

MR MOORE: With that rather small qualification in terms of the department in general. I have to say that I am somewhat saddened that somebody had to go through that kind of process, with the sorts of accusations and things that appeared in the media at that time, because I know that at that time the officer was not only a very effective public servant but certainly a caring and wonderful person. I would like to ensure that that is on the record.

MR HARGREAVES (11.28): Mr Speaker, I rise to speak very briefly to this report. I spent 19 of my 29 public service years in what is now the Department of Health, Housing and Community Care. I worked in the areas of contract administration and the provision of management and consultancy services. I was involved predominantly in the provision of services to the customer—the actual real-time stuff. I know that the officers of the department with whom I worked have incredible integrity and an incredible need to do things the right way. I know that they sometimes err on the side of caution, and for that I think we should congratulate them.

Every now and again, however, there are perceptions. These perceptions need to be put to rest, and I think that has been done in this report. However, the report sets out a couple of flaws in the process. The only constant thing about the department of health when I worked there was the rate of change, and that has not changed. If I may digress for a second, Mr Speaker, I recall at one stage we said that a transit lounge was the only room in the whole of the department of health that had revolving doors. People used to go in and out of it with monotonous regularity. I went into it three times and came out the other side.

Part of the problem, of course, with such a rate of change is the turnover in staff. Whilst the staff in this department are very dedicated people, sometimes the procedures are not passed on properly from one person to another. So we are talking about a systemic hassle. I can recall that every year I was given folders that contained a different set of contract conditions and so on, but you learn to live with this sort of thing.

I think the committee is pointing out in its report that we need to have a set of instructions which are constantly kept up to date. I know that this is a very difficult thing to do in a system which is subject to constant change. I sympathise and empathise with the people who are involved in that process. I was pleased to see the minister talk about that sort of thing and it would be nice if he left behind an imprimatur for people to adopt that kind of mindset.

I believe that conflict of interest in the Department of Health, Housing and Community Care would be the rarest occurrence imaginable. We are talking about people who consider their work in the department a vocation, not a job. Predominantly people work in the department because they want to. If you want a measure of their commitment, just look at the number of times they complain about the rate of change. They complain about things that are going on within the department but they do not leave. Quite a number of my colleagues have had 20 or 30 years service in the department because of that commitment.

Mr Speaker, I also welcome this report. I would like to send a message to the department that we have the utmost confidence in what they are doing.

Question resolved in the affirmative.

Statement by chairman

MR QUINLAN (11.32): Mr Speaker, pursuant to standing order 246A, the Standing Committee on Finance and Public Administration has resolved that I make the following statement regarding Auditor-General's Report No 1 of 2001—*Financial Audits with years ending to 30 June 2000*. I seek leave to table the statement.

Leave granted.

MR QUINLAN: I present the following paper:

> Finance and Public Administration—Standing Committee—Auditor General's Report No 1, 2001—Financial Audits with Years ending to 30 June 2000—Statement.

I will limit my comments to saying that there is not a lot new in this report. The Auditor, in the commentary he makes in reports of this type, notes the improving financial position of the territory. For obvious reasons to the informed observer, he falls short of attributing this to the blood, sweat and ticker of the government.

As this is the last report of the Finance and Public Administration Committee, I would like to say a few words. First, I would like to challenge Mr Hird's claim that seemed to imply that he was the chair of the hardest working committee in the Assembly. I know that he has had lots of meetings and done lots of things over and over again in the same way.

I would, at this stage, remind members that the Finance and Public Administration Committee has handled the following matters that I can remember just off the top of my head: the full spectrum of audit reports, ranging from Bruce to the very simple reports that have given processes the tick; and some quasi-estimates hearings on supplementary appropriation bills where there was not enough time to form an estimates committee to get the job done—we took on the role of being a pinch-hit committee. The committee has been involved in the draft budget process probably more heavily than any of the other committee in the place.

We have had inquiries such as the inquiry into the purchaser/provider system and its implementation in the ACT. We have monitored the probity process in the creation of the ActewAGL joint venture. There have been a couple of self-referrals that I can think of off the top of my head such as the capital works report that I delivered just today and the TransACT hearing that we had in recent times and which I think is serving the public interest.

It has not simply been a case of volume for our committee; it has been a case of addressing consistently complex issues. To that end, as chairman of the committee I would like to record my thanks to the other members of the committee, Mr Cornwell and Mr Kaine, and to the committee staff who have served us during the various inquiries that were conducted. The committee did not present pro forma reports—generally they have all been unique in nature. Reports can be a burden but the committee was excited about the satisfaction it gained from this process. I can inform the house that I have very much enjoyed my role as chairman of our public accounts committee and I wish whoever assumes that role in the next Assembly the same degree of satisfaction.

Justice and Community Safety—Standing Committee
Report No 18

MR OSBORNE (11.36): I present the following report:

> Justice and Community Safety (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Standing Committee—Report No 18—The Commission for Integrity in Government Bill 1999, dated 29 August 2001, together with a copy of the extracts of the minutes of proceedings.

I ask for leave to move a motion.

Leave granted.

MR OSBORNE: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR OSBORNE: I move:

> That the report be noted.

The committee has made some recommendations. Mr Kaine will probably speak a little bit longer than me on the issue. In conducting this inquiry, we travelled around and had a look at different agencies in New South Wales. Although the committee did not recommend that we go ahead with the original bill, I think there was general consensus within the committee that we could do things better and that there could be a point of call for people who felt they had a grievance.

The Auditor-General made some recommendations to the committee which the committee took on board. We would hope that they are progressed in the next Assembly. I thank the people who took time to make submissions, especially the people who came before the committee and spoke to us about very difficult issues for them. I thank them for taking the time to come before the committee.

I thank Mr Kaine, Mr Hargreaves and Mr Hird for their assistance on not just this report but our many other reports. I am sure that with our many scrutiny of bills reports we could challenge Mr Hird's claim, but we will not do that. I thank members of the committee for their assistance over the last 3½ half years. I thank Mr Kaine for his wisdom, Mr Hargreaves for making me change my mind on things for no reason other than, if I did not, he got cranky with me, and Mr Hird for gracing us with his presence. I also thank our secretary, Fiona, for her assistance over the last couple of years.

I commend the report to the Assembly

MR KAINE (11.39): I do not think I need to spend a lot of time on this matter. In speaking briefly to the report, I would like to go back to some of the comments I made when I tabled the original draft of this bill a couple of years ago. I said, amongst other things, that official or public corruption is one of the great evils of our time and unfortunately we cannot assume that our territory is immune from this creeping cancer. The cost to the community of such conduct is immense, not just in dollars but in the damage done to community confidence in public administration. The evidence taken by the committee supports the things I said then.

The one disappointing thing for me as a member of the committee looking at this bill was the response from the government. The government's response, quite simply, was that they objected to the bill on the basis that it would not be cost effective and there was no evidence that corrupt activity existed in the ACT. That was the line the Chief Minister took in debates in this place earlier.

If the Chief Minister and other members of the government had heard some of the evidence presented to the committee by people who feel themselves to be victims of the present system, they would have to change their view. I am not saying that individuals in the system are corrupt, but there is clear evidence that the systems themselves have failed a lot of people and that there has been, if you like, a corruption of the system. We do not understand why that is the case, but it would seem that public officials somehow do not focus sufficient attention on matters that are of serious concern to the community.

The committee—and I agree with the recommendations of the committee—has suggested that my bill not be proceeded with. The reason we came to that conclusion was not that there is no corruption and not that there is no need for some action to be taken, but that after having spoken to the ICAC commissioner and assistant commissioners in New South Wales we agreed that the structure of the ICAC in New South Wales, on which my bill was modelled, was inappropriate for us. It requires too great an infrastructure, and it would entail expenditure probably beyond the means of the ACT, if not beyond the needs of the ACT. I accept that.

The committee has clearly established that there is a gap in our administrative system. When people become aggrieved at the response they receive from a number of the elements of government infrastructure, there is nowhere for them to go. That theme came up time and time again. As I said, a number of the people who appeared before us were aggrieved that the system had failed them. They went to any number of different places in the system to try to have their grievances heard, and at the end of the day they had no satisfactory official response.

The committee concluded that it is not true to say that there is no corruption in the ACT. There is evidence of some corruption of the system at least. That may be because certain people in the system are corrupt and are not doing their jobs properly, or it may simply be that the administrative arrangements are such that people are able to decline to take on the responsibility of some problems that come before them, because of sensitivity or the nature of the problems. The committee concluded that something needs to be done. There needs to be an organisation within government as a last recourse for people who feel that the system has let them down.

I believe that that still ought to be a commissioner for corruption or, if you want to put the other light on it, a commissioner for integrity in government. They both mean the same thing to me. Where we found that the model I had put forward was rather excessive for the ACT, we looked at other possibilities, and we concluded that a proposal that came initially from the Auditor-General is the one that would be best and the one that we should act upon. That is that the Auditor-General should have additional tasks that would allow him to pursue matters of corrupt practice or, if you like, cases where somebody identifies a lack of integrity in the system.

We have recommended to the government that they pursue that model. We have left it open to the government to discuss with the Auditor-General how he might best perform that function. We have not set down a structure as to how that might be done, but my own personal opinion would be that the Auditor-General ought to be given the additional title of commissioner for integrity in government or commissioner for corruption, whichever the government decides.

While much of the corrupt activity, fraud and the like that might be detected by the Auditor-General through his audit program can already be dealt with by the Auditor-General to some degree under the existing Audit Act, there are clearly other cases where citizens feel that there is corruption or lack of integrity in the system. They would bring those matters to the attention of the new commissioner.

The new commissioner would not be empowered under his present act to take those matters on. So I believe that we need to appoint the Auditor-General, in addition, to be the commissioner for corruption, and that there needs to be a new act that defines his functions and responsibilities when he is wearing that cap. That does entail the necessity to provide some limited additional resources to the Auditor-General.

In discussions with the Auditor-General and his staff, it seemed pretty obvious that the sorts of investigations the Auditor-General does as Auditor-General and the sorts of investigations he would have to undertake as the commissioner for corruption are two different types of investigations and they perhaps require people with different skills. So we need to identify the two functions that the Auditor-General would have in the future

and make sure that the structure is set up and that the right resources are provided to him to make sure that he gets on with the job and is capable of doing it.

In summary, the committee believes that such a commissioner or such an entity ought to be established. We believe that the Auditor-General is the appropriate person to take on that additional function. That entails the government getting into negotiations with the Auditor-General as to how he might best take on this new function. I think this is an important thing. There is clearly a body of people in the community who feel let down by the system. They feel that their grievances have not been comprehensively heard, and they believe that in many cases the outcomes have meant, for them, great disappointment. I think that is a reflection on the system, and it is a matter the government is obligated to take on and pursue.

I do not know any more than any of the rest of us here whether I will be sitting in this seat after 20 October. If I am, I will be continuing to press the government to pick up the recommendations of this report and put them into effect quickly, because I think it is necessary. But should it turn out that I am not here on 21 October, then I exhort the government to take this matter seriously, discuss it with the Auditor-General and devise a model that can be put into effect quickly.

I would seek to support other members of this place who, if I am not here, most certainly will be to make sure that the government acts on this report and puts into place an agency to which aggrieved citizens, or citizens who simply believe that things are not all that they ought to be, can go and have matters heard. I commend the report to the Assembly and to the government.

MR HARGREAVES (11.50): I concur with the things Mr Kaine and our chairman have said. I would like to underscore the need not to concentrate exclusively on the prosecution of corruption or lack of integrity in government. We should be concentrating on education and prevention. If we remove the culture, then we will not have a prosecution problem. That is the theory. That came through loud and clear when we spoke to Commissioner Moss and to the Hon John Hatzistergos from the New South Wales Parliamentary Joint Committee on ICAC.

We need to look at the scale of things happening in the ACT. I do not know whether the lack of integrity and the possibility of corruption in the ACT public service are anywhere near what they are in the New South Wales system. I do not think the ACT needs a big stick approach. But I concur with Mr Kaine. We need to attack the culture, and attack it properly.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.51): I have had only a brief look at this report, but I welcome its recommendation that the Commission for Integrity in Government Bill 1999 not be proceeded with. I note the comment by Mr Kaine that the bill provided for a regime for dealing with the problem—whatever the problem might be—which was overly elaborate for the ACT.

With respect, I think that was perfectly obvious on the day the bill was tabled. The bill was lifted almost word for word from equivalent legislation in New South Wales. The cannibalisation of the New South Wales legislation was so obvious that you could see

even references in the bill Mr Kaine originally tabled to New South Wales positions which had no equivalent in the ACT—certainly not with the titles that were used.

It seems to me that an inquiry of the kind that the Standing Committee on Justice and Community Safety undertook ought to have been an inquiry to determine fundamentally whether there was a level of corruption or lack of integrity in government such as would warrant a bill of this kind being considered, much less passed. My quick overview of what the committee has found indicates that evidence of there being corruption in the ACT is not identified by the standing committee, which I suspect led the committee to the view that we should not be proceeding with this sort of legislation.

I note the comments Mr Kaine made about why people feel a sense of dissatisfaction with the way government looks at things in the ACT. He said that public officials do not focus sufficient attention on matters of concern to members of the public. That may be true. Mr Kaine also said that there were people who felt that there was a corruption of the system by virtue of the fact that they felt themselves to be victims of the system, because they were dissatisfied with outcomes that the system had delivered. All of that is worth noting. I have no doubt that each of us, as members of this place, have encountered such people from time to time.

But whether any of that amounts to a state of affairs that would be fairly described as a lack of integrity on the part of government officials or, to be more blunt about it, corruption is another matter altogether. Nothing I see in this report suggests that any evidence of corruption has been unearthed.

There may be people who were dissatisfied with the way in which they were dealt with by the system at various stages. I note from paragraph 29 and the following paragraphs that someone giving evidence before the committee referred to dissatisfaction with the conduct of the AFP, the DPP and the Ombudsman and listed the sorts of things they felt were inappropriate in the way in which those organisations dealt with their concern.

I do not know who this person was. There was a case I had some encounter with which quite possibly fits those circumstances. I do not know enough about it to know whether this is the case or it is not. But again nothing is disclosed on the face of this report that would suggest that any of those officials—the AFP, the DPP or the Ombudsman—were corrupt. Indeed, I am not sure the committee came to the view that any evidence put forward suggested corruption on the part of any of those officials.

I maintain the view that legislation of the kind being put forward is, to some degree, playing with fire. Even the tabling of a bill in the Assembly suggesting that there is a problem with corruption that needs to be dealt with is a step which could be misinterpreted by members of the community.

I want to reassert, on the basis of not having seen anything in this report to contradict it, that the ACT is served by public officials who are of a very high quality. There is little or no evidence of corruption or lack of integrity in the discharge of duties by public officials in this city. I see that as an important reaffirmation of the quality of the people who serve this community day in and day out in a range of occupations.

The fact that there are people who are dissatisfied with outcomes does not of itself suggest that there is corruption in our system. None of us should be heard to suggest otherwise, without there being solid evidence of a kind which has not yet been produced.

The Commission for Integrity in Government Bill—as was its predecessor, the Commission Against Corruption Bill—was a stunt. I am pleased that the recommendation from the standing committee is that the bill not be proceeded with. It was unworthy of this Assembly, and I am glad that it is not to be proceeded with.

MR STANHOPE (Leader of the Opposition) (11.57): I was going to speak to this matter, but I am a little bit concerned about the reasons the Chief Minister outlined in saying that this matter should not have been inquired into.

I may be corrected if I am wrong, but I do not believe it was the task or within the terms of reference of the committee to investigate the presence or otherwise of corruption within the ACT. It is quite unfair of the Chief Minister to berate the committee and to berate the Assembly for having this matter inquired into by the justice committee, on the basis that they did not find any evidence of corruption.

On my understanding, they did not look for evidence of corruption. This was not an inquiry into corruption. It was an inquiry into a piece of draft legislation proposed by a member of this place. I would have thought it was quite legitimate for any member to propose any legislation he liked and for the committee to inquire into it without doing a full-scale investigation into whether or not there is corruption in the ACT. It is a completely different question. It is not for the justice committee of this Assembly to undertake an investigation into the existence or otherwise of corruption within the ACT government or within the ACT. It is not appropriate.

I make the point for the record that I think the comments the Chief Minister made were misdirected and, quite seriously, irrelevant.

Mr Humphries: You misunderstood what I was saying. I was not attacking the committee at all.

MR STANHOPE: I think it is important. In relation to this report, you said, "The committee has not found any evidence of corruption. Thank goodness we have not proceeded with this legislation." The committee did not look for evidence of corruption. It is dangerous to suggest, "The committee did not find any corruption. Therefore there is no corruption. Therefore we do not need the bill."

Mr Humphries: They were looking for it.

MR STANHOPE: You have got the order back to front. The committee did not go looking for corruption. It was not the basis of the inquiry. It may very well be the case that there is none, but it is dangerous for you as Chief Minister to suggest, "We have had an inquiry into corruption. There is not any corruption. We do not need legislation." It is an extremely dangerous position.

Question resolved in the affirmative

Personal explanation

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

MR SPEAKER: You have permission.

MR HUMPHRIES: I have not at any stage suggested or made any criticism of the Standing Committee on Justice and Community Safety. In fact, I want to put on record that I endorse the findings of the standing committee. My comments were meant to be supportive entirely of what the standing committee had come to.

Justice and Community Safety—Standing Committee
Statement by chairman

MR OSBORNE (12 noon): Pursuant to standing order 246, the Standing Committee on Justice and Community Safety resolved that I make a statement regarding the ACT policing inquiry. I seek leave to have the statement incorporated in *Hansard*.

Leave granted.

The statement read as follows:

> On 17 February 2000, the committee resolved to inquire into and report on the adequacy of current arrangements for A.C.T community policing with particular reference to:
>
> (1) community perceptions;
> (2) outcomes, accountability and value for money;
> (3) police morale;
> (4) policing priorities and resource allocation;
> (5) police numbers;
> (6) police training needs; and
> (7) any related matter.
>
> The committee advertised for submissions and wrote directly to relevant organisations inviting submissions.
>
> Ten submissions were received. Those making submissions included:
>
> 1. Mr Leonard Barratt
> 2. NSW Minister for Police
> 3. ACT Neighbourhood Watch Association
> 4. ACT Council on the Ageing
> 5., ACTCOSS
> 6. ACT Ombudsman
> 7. Youth Coalition of the ACT
> 8. Manuka Safety Committee
> 9. Government Submission
> 10. Australian Federal Police Association

> The committee wishes to advise the Assembly that all submissions have been authorised for publication. Most of the submissions contain useful information which deserves to receive further attention from members in the next Assembly.
>
> The committee encourages the committee tasked with oversighting the police in the Fifth Assembly to consider the material in the submissions to this inquiry.

The impetus for the inquiry was the desire to ensure the ACT taxpayer was getting the best value for money from the Australian Federal Police, particularly in light of the new Policing Agreement between the ACT Government and the Australian Federal Police.

The key issues contained in the submissions were:

- need for more police, more visible police and more community training for police;
- the importance of building positive relationships between the police, indigenous youth, youth from culturally diverse backgrounds and youth in general;
- need for more contact between the police and community in non-reactive and non-confrontational circumstances;
- police community liaison work should be expanded;
- older people feel a lack of police presence in their areas and local shops and see this it the most important policing issue which requires addressing; and
- insufficient resources devoted to the Neighbourhood Watch.

The Australian Federal Police Association submission noted:

- police gain useful experience in working as overseas peacekeepers;
- concern about the structure of the Purchase Agreement between the ACT Government and the Commonwealth (they questioned the performance indicators and benchmarks chosen);
- lack of along term resourcing strategy between ACT and National commands and lack of forward strategic budgeting and formal accountability structures;

> The committee visited Sydney as part of this inquiry and attended a NSW Police Service Operations Crime Review (OCR) forum which the committee found very interesting.
>
> There was a strong emphasis in this forum on the strategy of targetting recidivist offenders. The committee notes that the ACT police service has concentrated on this strategy in recent times, obtaining good results.
>
> The committee has not been able to complete a full inquiry into this matter due to other priorities.

- attrition rates are not good; and
- the union's confidence in the ACT Command and improvement in morale with new leadership.

MR SPEAKER: Mr Osborne, do you have another matter?

MR OSBORNE: I think Mr Hargreaves wants to speak first.

MR SPEAKER: Is leave granted for Mr Hargreaves to speak?

Leave granted.

MR HARGREAVES: I know how interested the minister for police will be in what Mr Osborne has incorporated. I will wait till he gets back into the chamber and has a go.

One of the reasons for not being able to finish this inquiry is that time overtook us. There were quite a number of reports—

Mr Moore: I take a point of order, Mr Speaker. How is Mr Hargreaves speaking? Is it by leave?

MR SPEAKER: He has leave.

MR HARGREAVES: I am speaking as member of the committee. The committee was waiting for submissions from people who indicated to us that they wanted to make submissions. In my view, those submissions would have been pivotal to our conclusions. They did not arrive.

I take this opportunity to acknowledge our committee secretary, Fiona Clapin. Although we may still be here at 2 o'clock in the morning—I hope not—she is likely to go home at a reasonable hour for a well-earned rest. I want to place on the record my appreciation for the role Fiona has played in what we have done on the Justice and Community Safety Committee. We did a lot of thinking and a lot of work on the prison issues. We also did a lot on a number of other inquiries. It is a very difficult job being a committee secretary. I do not know how our secretaries do it. I take my hat off to them.

The beauty of our standing committee is that it has four different approaches. But someone has to have the talent to put together a sensible report which reflects all our views. In the 3½ years we have been together as a committee, we have had one dissenting report. That is testimony to the tightrope walking that Fiona Clapin has done. I express my appreciation to the committee secretariat in toto for the assistance they have given us.

When I came into this place, I did not know anything about how the committee system functioned. I had had a fair amount of experience in the public service, but it was a completely new ball game in this place. I want to make sure that everybody is aware that the committee system would not function without high-quality secretarial staff.

Scrutiny Report No 15

MR OSBORNE: I present the following report:

> Justice and Community Safety (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Standing Committee—Scrutiny Report No 15—dated 29 August 2001.

I ask for leave to make a statement.

Leave granted.

MR OSBORNE: This report contains information on the Payroll Tax Amendment Bill we passed this morning. I commend the report to the Assembly.

MR HARGREAVES: I seek leave to speak to the report.

Leave granted.

MR HARGREAVES: I do not want to refer to the content of this report but to record my appreciation for the role of our support staff, particularly Peter Bayne, who interprets the legalese for the non-lawyers on the committee. He explains it in plain language for us. He is an incredible help. The quality of the committee's reports to the Assembly over the last 3½ years is testimony to Peter's expertise.

Celia Harsdorf also deserves special mention. She goes through the regulations. I am blessed if I know how she does that. I cannot read them. Thank God we have Celia Harsdorf.

I also express appreciation to Tom Duncan and Mark McRae for the guidance they have given us. The conferences I have attended representing the committee as the leader of the delegation have been daunting. Were it not for the assistance of Tom Duncan, Peter Bayne and Celia Harsdorf, it would have been much more difficult. I have learnt an enormous amount not only in the context of those conferences but also through the events associated with them. I know I speak for the committee in expressing appreciation of the support staff. It has been brilliant.

MR OSBORNE: I seek leave to speak again.

Leave granted.

MR OSBORNE: I too would like to thank our committee support team—Celia, Tom and Peter—for their assistance throughout the last 3½ years. Obviously, on a committee like this you do need that expertise, and I feel that we were well served this term.

Amendment to standing orders

MR CORBELL (12.06): Mr Speaker, I ask for leave to move the motion circulated in my name to amend the standing orders with regard to the certification of bills having passed the Assembly.

Leave granted.

MR CORBELL: I move:

> That, with effect from the commencement of section 28 of the Legislation Act 2001, standing order 193 be omitted and the following standing order substituted:
>
> **Certificate of Bill having passed**
>
> **193.** After a Bill has been passed, the Clerk shall certify a copy as a true copy of the Bill passed by the Assembly, and the Speaker shall then ask the parliamentary counsel to notify the making of the proposed law.

This is a motion which the Assembly needs to adopt today in relation to our standing orders. Members, I am sure, have followed closely that the Legislation Act 2001 makes changes to the way in which acts are notified. Section 28 of the Legislation Act passed earlier this year requires that if a proposed law is passed by the Assembly the Speaker must ask the Parliamentary Counsel to notify the making of the law.

Currently, standing order 193 of the Legislative Assembly requires that the Clerk shall certify a copy as a true copy of the bill passed by the Assembly and the proposed law shall then be presented by the Speaker to the Chief Minister for notification in the *Gazette*. My motion is to simply amend standing orders to bring our practice into line with the requirements of the Legislation Act.

Question resolved in the affirmative.

Good government in the ACT

MR MOORE (Minister for Health, Housing and Community Services (12.08): I move:

> That this Assembly reaffirms a commitment to good government for the people of the ACT.

Almost all politicians I have known enter public life with primary goals to do with building a better society, a healthier society, a more just society and a more equitable society or perhaps to serve one section or other of the community they feel is very important. When I say "almost all politicians", I include every member here today. There are some exceptions I have met before this Assembly.

It is an irony that I should be using executive members business today to make this speech. Executive members business, a unique creature of this Assembly, recognises the unusual role I have played in this Assembly as an Independent member and a member of the executive.

Over the last few weeks, as I have been thinking about leaving politics, I have had time to consider the things I have done well and the things I have done not so well. I have also been thinking about what I would do if I was starting in politics now, with a clean slate, but with the advantage of the knowledge and experience I have accumulated.

Although people enter politics with primary goals, they become distracted by secondary goals. The secondary goals are about how to achieve what they set out to do. If they are in opposition, they realise that the government—or, if they are in government, they realise that the opposition—stands in their way of achieving some of their goals. So they develops a secondary goal of destroying the opponent instead of destroying their ideas. This destructive instinct that becomes part and parcel of politics generates oppositional politics.

Oppositional politics has perverse effects on outcomes. It also creates perverse incentives for politicians' behaviour. The perverse outcomes are things like a huge amount of wasted energy, a growing cynicism in the electorate and the obstruction of many projects that might otherwise have been proceeded with.

Oppositional politics has perverse incentives as well. Perverse incentives include rewards for politicians for destroying the credibility of their opponents. Oppositional politics encourages politicians to obstruct the contributions that others seek to make. It discourages trust. It discourages cooperative activity. In other words, using a term that we have been using in this Assembly for some time, it reduces social capital.

Oppositional politics also generates conspiracy theories, not only about one's opponents, not only about the other political party or other political parties, but also about the public service. Every single public servant I have encountered has been working hard to deliver the best they can within their area of responsibility for the community. Oppositional politics creates the sense that politicians and particularly public servants are working to undermine the good governance of this territory.

The relationship between an oppositional system and the media is also perverse. We are all aware that the media, written and electronic, find conflict much more stimulating, as does their audience. Therefore, the role of the media becomes to encourage conflict and to ignore cooperative behaviour. You only have to look at the legislation we have passed over the last three weeks, whether it be private members business or government business, that the media have given coverage to.

The media encourage conflict. They encourage oppositional politics. They encourage politicians to enhance conflict by attacking not only ideas but also their opponents, particularly the credibility of their opponents.

People present a series of justifications for this system. The first justification is that the dialectical process leads to evolutionary improvements of outcomes and policies. This is an extraordinarily weak argument. The second justification, one which is probably stronger, is that the tension is an incentive to performance. It keeps people on their toes and makes sure they always behave appropriately. This argument is a bit stronger, but it is also a weak argument, because there are so many demonstrable adverse effects. It pushes secrecy; it pushes mistrust; it pushes cowardice.

In mentioning the harms that come out of oppositional politics as a system, I want to make it very clear that I am not pointing to the opposition. I am talking generically. The first harm is an attitude of disrespect for people who have different opinions. The second is a worsening attitude by people to their politicians when they see the lack of respect in which politicians hold one another.

This leads to the next step: a worsening attitude to democracy and democratic systems. It damages the reputation of individual members. It also develops a system of protective behaviours, no matter where you sit within the legislature. This applies not only to the legislature but also to the public service.

One of the most damaging impacts of oppositional politics is risk-averse behaviour. Instead of giving it a try, even if something may go wrong, the focus becomes entirely directed on what can go wrong. If you try 10 times and things go wrong once, it means you have achieved nine things. Risk-averse behaviour by our public servants and politicians will result in much less being achieved over 20 years than would have been achieved otherwise.

Let us go back to the primary goals about a better society and a more just society. Whatever your personal primary goals were, they are undermined by risk-averse behaviour. The alternative is to forgo opposition, practise cooperation and gain the benefits. I say this as somebody leaving the chamber. In presenting these ideas, I am not pointing the finger at anybody.

The alternative is to forgo oppositional practices, to seek cooperation and to pick up the opposite of what I have mentioned—the benefits. The benefits are an increase in respect for people who have different opinions and an increase in community respect for politicians and democratic institutions. That will allow members elected to this place to achieve more.

There is a course of action for all participants of the political process. That course of action, first and foremost, is to put a greater emphasis on building rather than destroying. Each of us may come into this place with the intention of doing that, but the oppositional politics takes over. I would like to quote from Mr Stanhope's inaugural speech on 28 April 1998, but not in a pejorative way. He said:

> I want to stress that we will seek to enhance the role of Opposition so that we simply do not have the job of opposing. The make-up of the Assembly, in which no party or coalition has a majority, will allow us … to take the initiative in delivering better laws and better governance for the people of the ACT.

Not only Mr Stanhope's inaugural speech but almost anybody's inaugural speech reiterates the sentiments of delivering a better society and behaving in a better way. But how many of us in this place have fallen down in the practice? I do not mean on the odd occasion when we get incredibly uptight and half a day later say, "Sorry about that. Let us have a beer." We have all been through that process. The falling down is to step away from what we set out to achieve and to engage in sustained, deliberate, personal attacks on somebody's credibility—in other words, to practise oppositional politics. That is not to be confused with the human slip-ups when we are tired and have a go at somebody. Nor is it to be confused with the healthy tension that occurs over ideas in this Assembly.

One of the things that I have been very grateful for in this Fourth Assembly is the former Chief Minister and the current Chief Minister inviting me to be in the cabinet. For the whole time I have been in the cabinet I cannot remember a single occasion on which we have slipped into the nasty personal business. There have been vigorous differences of opinion, but at no stage have I experienced a personal attack.

Despite differences of opinion between them and me and between them as well, the focus has been on ideas. How much better it would be if the Assembly operated in that way. There have been many instances when it has. I would not want to create the impression that it never happens.

The most important thing for us is to focus on the primary reason for being in the Assembly, not the secondary one. It is a difficult thing to do, but it is a challenge I issue to the 17 members who will be in next Assembly. Some of them will be new; some of them will be coming back. Each and every one of us in this place can help one another by recognising the achievements of other members and not trying to find inappropriate personal motives. Recognise people when they do something positive, even if you disagree with their opinion.

In conclusion, I thank members for giving me the opportunity to say these few words and make some quite idealistic, philosophical points. I also thank each and every member for their contribution over the last 12½ years, since 11 May 1989. I shall reiterate that perhaps in the adjournment debate. As I look into the future, I wish the very best for member who are elected to the Fifth Assembly and each Assembly after that.

MRS BURKE (12.22): I thank Mr Moore very much for those words. They very much reflect my heartfelt sentiments for this place and my reasons for being here. There is something strange about the nature of politics in Western nations. It is as though some involved believe it is a plaything, something to be used for personal gain rather than community advancement.

When I entered the ACT Legislative Assembly as a newcomer to politics, I had high expectations. I had hoped for a forum in which the essence of issues would be discussed through rigorous debate. I had hoped that we would seek to set an example to not only our community but also those communities in nations where democracy is a newly discovered yet dearly held concept.

I had hoped to be challenged by an opposition with alternative and positive ideas, with an alternative plan for government. I had hoped that during debates in the Assembly we would reach for discussions about issues high on the agenda of people in our community, and that each member would come to the debates with a sense of what position to take and with a clear understanding of why they held that view.

Instead of what I had expected, I encountered something quite different. I discovered a government which had a strong and well-developed set of objectives they were seeking to achieve and an opposition that appeared to be more interested in rhetoric than reality, with the belief that living in the past would be their ticket to the future. I found that quite strange. I had not counted on an environment in which representatives of the diversity of the ACT population were so obviously not present.

While the predictability of the opposition makes being on the government benches of the Assembly much simpler, it has drawn me to think much more deeply about the example we are setting both for our community and for other communities around the world. Any government is only as good as their opposition.

Earlier this year it was reported that the ACT Legislative Assembly was being considered as a possible model for the system of governance in East Timor. While the model may be a good one and while it may even be a model for abolishing state governments across Australia, the sort of combative, sniping behaviour that is being modelled in our Assembly is certainly not worth being held up as a model for a fledgling democracy. We have a responsibility to be a model of much higher standard than we currently are in terms of behaviour and debate, and I think we owe it to ourselves and to our community to work seriously to lift that standard.

When we hear stories of the incredible and, most times, unimaginable struggles that many people in the world have fought for the right to enjoy democracy such as ours, it is disappointing that we do not take it more seriously. Researchers have suggested, for example, that the average Australian thinks seriously about politics for about 15 minutes every two years, while the average American thinks about these issues for about 10 minutes over the same period.

Does this suggest that our community is not interested in politics, or does it suggest that the current style and standards of politics have turned people off even thinking about those who represent them and the nature of debates they engage in? It would appear to be a bit of both. But this does not mean that we should let standards slip or behaviour degenerate into mud-slinging and purely oppositional, negative politics, as Mr Moore so eloquently pointed out. We as a community must instead cherish our political system, and as politicians we must respect the faith that the community has placed in us to represent their best interests and those of their families and friends.

Too often we forget about the importance of our system of governance. Too often we forget the benefits the system delivers to us and the things we would not enjoy if it were taken from us. But how do we engender greater respect in this democratic system of ours? How do we re-engage with the community to build a better society and a better system? I believe it must begin with politicians leading by example.

Firstly, we can, by recent example, consider the situation in other countries where there is not a stable democratic system of governance. We should think about the current dilemmas facing new Indonesian President, Megawati Sukharnoputri, as both a woman and a leader of an emerging democracy. Many issues critical to the development of her nation will face her over her term as president, not the least of which is civil unrest such as that which currently besets her country. We should take nothing for granted about democracy.

One of the great benefits of a democracy is that it creates a safe space for the large majority of people in our communities to express their views and have their voices heard by those who represent them in the decision-making process. Without this agreed approach to governance, we may have developed an approach to solving planning disputes which relied more on sword fights than appeals and consultation. And we may

have had an education system which specialised in weaponry training as opposed to literacy and numeracy. While we can teach the lessons of democracy to others, there is much about its absence which we can also learn from them.

Secondly, to involve the community in our system of democracy, we can investigate and implement approaches that seek to constantly renew their support for it. By reinforcing our commitment to processes like consultation and research, we are also reinforcing our commitment to democracy. Whether it be on drugs, the rehabilitation of offenders, planning matters or services for people on low incomes, consultation with the community is a critical element of both community engagement and participative democracy. Without consultation, there is only empty rhetoric and speakers without an audience. Involvement is empowerment.

Consultation is also an essential component of the creation of safe spaces for community debate. Consultation does not mean, however, that those with the loudest voice will always win the debate or that their position is necessarily the best. Consultation means that the most informed debate is conducted, that all those issues considered important by the community are canvassed and that all those affected have had the opportunity to have their say.

It is then the responsibility of governments in a democracy to consider that information, weigh each side of the debate and make a decision which balances the interests of those affected. The voting system which lies at the basis of a modern democracy essentially determines which people the community believes are the best equipped to undertake that balancing act.

Finally, those people elected to represent their fellow citizens must make a stronger commitment to upholding standards which our community would reasonably expect, and they must constantly remind themselves of the honour that has been given them by the electorate. Service above self should be our constant cry.

At the local level we should make a concerted effort to complete and pass a code of ethics and behaviour for Assembly members early in the new parliament. We, like many in our community, must have standards to which we can be held and against which our performance can be assessed. This code should reflect not only our commitment to high standards in representing our constituents but also the model for democracy that we would like to be held up to the world as something of which we can be proud.

The protection and promotion of democracy, a revitalised approach to community engagement, and higher parliamentary standards are three of the elements key to encouraging people in our community to think about politics for more than 15 minutes. They are essential to regaining respect for political institutions and taking seriously the dreams of those who aspire to our system of governance. Our community deserves it. The people in developing democracies deserve it, and we have a responsibility to deliver it.

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

Sitting suspended from 12.30 to 2.30 pm

Questions without notice

Canberra Hospital

MR STANHOPE: My question is to the minister for health and community care. I have been informed of a case in which a South Coast woman, a renal care patient at Nowra Hospital, has been refused access to the renal unit at Canberra Hospital while on visits to her family here in Canberra. Can the minister tell the Assembly whether this incident represents a change in Canberra Hospital policy and, if it does, what the reasoning behind it is?

MR MOORE: I am not aware of the particular incident. I am aware of another incident of somebody being told by phone that access to the renal unit would not given. When I checked, that was not the case. Under the Australian health care agreement, we provide services to people, whether they are in the ACT or come from other places.

With the renal unit, we normally follow a booking procedure to ensure that there is a seat/bed for somebody at any given time. The renal services at Canberra Hospital are one of the areas at Canberra Hospital that have been under significant pressure over the last few years. That is why we gave a significant increase in money—from memory, some $400,000—to the renal unit. We did that to ensure we could meet pressures.

Because of the number of people who have problems that are treated through nephrology, I expect that we are likely to see a constant increase in the next few years in renal medicine. It is an area that I expect will need increasing funding.

MR STANHOPE: Thank you, Minister. My source has been contacted by constituents who are clients at the renal unit with concerns about understandings they have been given that the hospital plans to cut services offered by the renal unit so that patients currently receiving three dialysis treatments a week would be restricted to two. I wonder whether you can confirm that and, if it is the case, would that mean that some patients would have to travel to Sydney for additional treatment?

MR MOORE: We certainly would not expect a patient who is on dialysis and being treated at the Canberra Hospital to go to Sydney for one of their treatments. If the renal patients I know were given the opportunity and it was clinically appropriate to go to the renal unit twice a week instead of three times a week, they would jump at it, but certainly they will not be forced to do it. There will be no action like that that is not clinically appropriate, nor should people feel under pressure.

A message of the same kind was left at my office yesterday. It certainly came through to me. We will now be pursuing it. As this is the last question time for members, if I can find any details I will let you know in writing what the answer to the question is or how that concern has come about.

Gungahlin Drive extension

MS TUCKER: My question is directed to the Minister for Urban Services and is about his support for moving Caswell Drive to the east. Minister, in the documents you tabled regarding your approval of Territory Plan variation 138 on the Gungahlin Drive

extension there was a report to you from PALM summarising the issues raised in the public comments received on the draft variation and PALM's response. Issues 50 and 52 in the report were about the movement of Caswell Drive to the east. PALM's response to these issues was not very supportive. For example, PALM said:

> An eastwards relocation of an arterial serving the function which Caswell Drive currently provides would have significant impacts on the north-west sector of Black Mountain reserve. It also would have impacts on the remnant vegetation on that part of Bruce Ridge immediately north of Belconnen Way.

It also said:

> The degree of fragmentation of reserve areas would be greater.

It also said:

> While there would probably be savings in the cost of interchange construction, an alignment further east than Caswell Drive would incur greater costs overall as a completely new section of road which links into Caswell Drive south of Aranda would have to be constructed.

It also said:

> Such an alignment would have potentially significant effects on the north-west sector of Black Mountain reserve. This area has a higher conservation status than that part of Bruce Ridge north of Belconnen Way and east of Calvary Hospital.

A higher conservation status, Mr Smyth. Minister, did you consult with your own department or read this document before issuing your media release saying that "the Aranda Residents Association's preferred route is the government's preferred route"?

MR SMYTH: Mr Speaker, of course I am aware of the documents and the work we have done because we have been working on that section for some time now. In the five-year traffic plan that we have put in place there is also an authorisation for some $6 million to look at Caswell Drive. As I said yesterday, whether the preferred route was in fact feasible still remains to be seen, and the final route would be determined after detailed engineering and environmental studies have been undertaken.

A contract has been let and I understand that the initial work to see whether or not it is feasible will be concluded by the end of November. I have said that all along. We support the option that the Aranda residents have said they would like to see occur. If it is feasible the government will back it.

MS TUCKER: Given the expected delays in finalising the route of Gungahlin Drive and Caswell Drive because of the ACT election and the need to vary the National Capital Plan, will you stop doing any design work on the road until we know once and for all where the road is going, or are you willing to waste taxpayers' money on designing a road that may be in the wrong place?

MR SMYTH: Mr Speaker, the only waste of time was due to the fact that when the government wanted to put forward its draft variation on Gungahlin Drive in 1999 the Greens and the Labor Party sent it off to a committee.

Ms Tucker: Oh, that was a pity.

Mr Corbell: Oh, that was a crime, wasn't it.

MR SPEAKER: Order! Settle down.

MR SMYTH: This DVP and the process could have occurred two years ago. That was the only waste. The people who have stood in the way of the residents of Gungahlin getting the sort of transport that they deserve are those opposite.

Mr Speaker, we have laid out our plan. We have a five-year road plan. Because we have made up for Labor's $344 million operating loss we have the money in the outyears to carry out the plan. Why? Good financial management, good planning and a view to the future.

Payroll tax

MR QUINLAN: My question is directed to the Chief Minister. It relates to the Auditor-General's Report No 5, 2001—*Administration of payroll tax*, which was brought down last week. There has not been sufficient time for that to be reviewed by the exemplary committee system that we run; nevertheless, it deserves an answer. So, would the Chief Minister like to give his assessment of this report? Is it an indicator of the financial management of the Carnell/Humphries government since 1996—which is the period of the review—or would he put it down to being just an aberration?

MR HUMPHRIES: I thank Mr Quinlan for that question. It is worth recording a few things about the report of the Auditor-General on this area of government tax collection. The Auditor acknowledges that existing practices and procedures are generally effective in achieving what they are intended to achieve. It is also a fact of life that a level of revenue leakage can be expected from all self-assessed taxes, such as payroll tax.

The issue of how a small revenue office can best allocate resources over a wide range of taxes to achieve optimum revenue outcomes for the territory is one that has been raised by the report of the Auditor-General. Neither the department's records nor the Auditor-General's reports reflect that there has been a material revenue loss. Revenue from existing compliance activity certainly exceeds output targets, and the amounts detected are small relative to total parallel tax collections.

Also, the results of existing compliance activity cannot validly be used to extrapolate and determine revenue leakage, as such activity uses targeting techniques and is not random. In other words, there is no assumption that, because you have looked at a particular place and found a certain amount of tax that has not been paid, if you multiply that by the number of other workplaces there are in the ACT, you will therefore find the amount of tax that has been avoided.

I have been advised by the ACT Treasury that the main reason for the Auditor-General's opinion is that no attempt has been made by the department to measure the size of any possible revenue leakage. The view put forward in that is that somehow a failure to measure the size of any leakage indicates either that there is no concern about the amount of leakage or that the department does not want to look because it might be shocked by the answer. The better response to that concern is that an exercise to determine the leakage would involve very significant resources over a 12-month period and, even then, would be most unlikely to result in a reliable or accurate method of estimating the leakage of payroll tax.

The compliance methods to ensure that payable revenue has been collected efficiently and effectively have been addressed by other taxing authorities throughout Australia, where it is recognised that better compliance results are achieved through data matching processes and case selection based on prior experience. The ACT Revenue Office has been adopting these well-proven compliance measures for payroll tax.

When the Labor government handed down its last budget in June 1994, the payroll tax threshold was $550,000, the rate was 7 per cent and the amount collected was $100.6 million. Since being in office, this government has steadily increased the payroll tax threshold from $550,000 to $900,000 last year, to $1¼ million this year and will increase it to $1.5 million next year. We also reduced the rate from 7 per cent in June 1994 to 6.85 per cent in July 1996. Against this reduction in the payroll tax net—the amount we collect from each employer—the amount we have collected in total in payroll tax has risen to $155 million.

Even taking into account the increases in average weekly earnings of 29 per cent over this period, payroll tax collections have increased by 54 per cent. That is even after you have taken into account the reduction in the amount being collected from each employer. The figures indicate that the increase in collections is greater than the general increase in earnings on which the tax is based, even though all aspects of the tax burden have been reduced. There has been a marked improvement in payroll tax administration since this government has been in office.

We have undertaken to further investigate the suggestions for improved methods made by the Auditor-General in his report. I believe the method of collection is satisfactory. There is some room for change at the fringes but, overall, I am satisfied that the amount collected is appropriate to the amount of effort put in. With a very intensive additional resource placed into the Department of Treasury for compliance, it may be possible to collect some more. The question is whether the extra amount collected would be more than the amount spent to make that level of compliance possible.

MR QUINLAN: Payroll tax has increased through federal government outsourcing, so we won't bother looking at it. You mentioned in your answer—

Mr Moore: That was a preamble.

MR QUINLAN: It is part of the extension of the question. In his answer, the Chief Minister referred to collections exceeding target. You are aware that this report criticises the way the target is set. I quote:

> The target is calculated by dividing the total taxation revenue detected by compliance activities by the average number of compliance inspectors employed …

So our target is: as much as we have done. It is a rather circular process, and you have just relied on it and told this place it is okay because we have exceeded target.

Mr Smyth: On a point of order: that is hardly a supplementary. Supplementaries are meant to be concise, without preamble and relevant to the original question.

MR QUINLAN: Yes, and must not embarrass the government. Is that implied?

Mr Smyth: You have to be better organised.

MR QUINLAN: Okay. It is my last day; I am taking whatever licence I can, thank you.

Chief Minister, since there has been so much talk about benchmarking and the review of performance measures, do you intend to review the performance measures that you have relied on? They have been bagged in this report.

MR HUMPHRIES: First of all, as is usual for the opposition, they have looked at the things they consider to be problems or flaws arising from this report. In fact, the report from the Auditor-General is very positive. The Auditor is very positive about the administration of payroll tax. I table a summary of the comments made by the Auditor-General in his report on payroll tax, in which he compliments the administration of payroll tax on the part of the government. Overwhelmingly, that is positive about the report. I present the following paper:

> Payroll tax—Auditor General Report No 5, 2001, positive comments from the report.

When Mr Stanhope made a comment about payroll tax, he said that the report had found that the government "seriously mismanaged payroll tax assessment and collections". I am sorry, but words of that kind do not appear anywhere in the report of the Auditor-General.

Mr Stanhope: That is what he meant.

MR HUMPHRIES: Oh, that is what he meant? I am pleased to say that we now no longer need to read the Auditor-General's reports; we just have to ask Mr Stanhope what he meant. He might not have said it, but he meant it in a different way. Nowhere in the report is there a comment of the Auditor-General demanding immediate action to overhaul the payroll tax assessment and collection practices and procedures.

Mr Stanhope: The report says this government is incompetent.

MR HUMPHRIES: You must have the expurgated version, Mr Stanhope, because mine does not say that anywhere.

Mr Speaker, of the seven suggestions from the report there are two in which the Auditor-General required prompt action, and one is the refining or replacing of the existing computer system. It is hardly a matter of the government having mismanaged that the computer system needs to be replaced; in fact, we have made significant progress during the year towards the replacement of the entire ACTAX system. The other suggestion was for a prompt review of current staffing requirements.

I do not know how, from these suggestions, you can say that there is an immediate need to overhaul the government's attitude towards this or that we have seriously mismanaged payroll tax assessment and collections. Again, these attacks look nice in the headlines you might try to grab, but they do a disservice to the public servants who administer the system and they also do not accurately represent what the Auditor-General actually said.

Finally, Mr Quinlan's question said that the increase in payroll tax take has been entirely the product of Commonwealth government outsourcing. When we have a promise from these people, when we come to a federal election in November of this year—or whenever that is going to be—they are going to be up there saying that the ACT community has benefited enormously from the fact that we have had a huge increase in economic activity flowing from Commonwealth government outsourcing in the ACT. Somehow, I doubt it.

We will take Ted, the friend of the federal government, and put him to one side today. The fact is that payroll tax in this territory is basically well administered. There is some room for improvement, which the Auditor has pointed to. But the alarmist things said by the opposition simply cannot be justified.

Royal Canberra Hospital implosion

MR KAINE: Mr Speaker, my question is to the Chief Minister. It is now more than four years since the tragedy of the bungled Royal Canberra Hospital implosion which cost the life of a young girl. Chief Minister, what consideration, if any, have you given to your government's liability to pay compensation to the family of Katie Bender and, indeed, the other individuals who suffered? Have you paid the promised compensation—and I emphasise the word "promised"—and if not, why not?

MR HUMPHRIES: Mr Speaker, something tells me there is an election in the air when politicians choose to play on such issues for the purposes of political gain.

Mr Kaine: On a point of order, Mr Speaker: the Chief Minister seems to be determined to cast some aspersions on my reasons for asking this question. I think that is out of order.

Mr Berry: Just answer the question.

Mr Moore: There is no personal imputation.

MR SPEAKER: Order! Mr Kaine has asked his question. He does not need help from all you other people.

MR HUMPHRIES: Mr Speaker, I think people can draw their own conclusions about Mr Kaine's motivation. I will not draw any conclusions of my own.

The fact is that the government indicated when this incident occurred that it was intent on making sure that proper restitution was made for all the parties to whom compensation would be payable. The government made the decision that it would immediately enter into discussions with the appointed representative of the Bender family to ensure that that process was achieved.

Negotiations of that kind necessarily involve two parties. They involve the government or its agencies and they involve representatives of the Bender family. Those discussions have continued and, on my best advice, are not yet resolved. It is a mistake to assume that the government is at fault by virtue of the fact that those negotiations have not concluded.

Mr Speaker, we intend to ensure that fair compensation is paid to the Bender family. But we also have a responsibility to make sure that we conduct these negotiations in a proper way. We will ensure as well that the interests of the ACT community are properly represented in those negotiations. While I am Chief Minister, I intend to make sure that is the case.

MR KAINE: Mr Speaker, I ask a supplementary question. Chief Minister, surely there is some question of integrity and principle here. The government did undertake to compensate this family. Are you saying that you believe that four years of waiting is a reasonable time to have left the Bender family in suspense on this matter? Can you not move immediately to pay reasonable compensation to this unfortunate family and stop trying to hide behind excuses?

MR HUMPHRIES: Mr Kaine does not appear to have heard anything of what I said in my answer to his question. I cannot just write out a cheque and send it to the Bender family because the Bender family representatives need to be prepared to accept that as compensation for the loss that that family has suffered. In case you have not worked out what that means, it means there have to be negotiations between two sides to settle on a figure. I could pile up a lot of money in a truck and drive it to the office of the solicitor concerned. But that is not the way in which any government, or anybody for that matter, conducts such negotiations.

Mr Speaker, I am satisfied that I and my officers in the relevant areas of government have conducted these negotiations sensitively, with due regard to the issues that will be playing on the minds of the Bender family and with regard also to the broader interests of the ACT community. That will be the basis on which the government will continue to have these discussions with the Bender family.

Mr Speaker, I have to say, though, that I find it highly ironic that we hear the words "integrity and principle" from Mr Kaine's mouth—a man who himself has demonstrated by his leaving of his own party 3½ years ago that he has very little integrity and very little principle in this place.

Mr Kaine: Mr Speaker—

MR HUMPHRIES: Oh, he is very sensitive today, isn't he?

Mr Kaine: Mr Speaker, he is again raising questions about my character. I think this is unacceptable and I think you should ask him to withdraw.

MR HUMPHRIES: Mr Kaine has raised such issues about my character.

Mr Kaine: Why don't you play the issue and not the man? I am talking about your principle and integrity. You don't have any.

MR SPEAKER: Order! I do not want a bun fight in the last question time.

Mr Berry: There is a point of order, Mr Speaker. Can I suggest to you that you ask the Chief Minister to refrain from raising matters which are not within his portfolio—for examples, squabbles in the Liberal Party.

MR SPEAKER: There is no point of order. You do that again and you may find yourself outside. Mr Kaine has asked a question.

MR HUMPHRIES: Mr Speaker, the issue that Mr Kaine has raised went to the question of my integrity. I suggest he look at his question in the *Hansard*.

Mr Kaine: I am talking about your integrity and principle, Chief Minister.

MR SPEAKER: Order! I do not want insults being exchanged across the chamber.

Mr Kaine: Well tell him to withdraw and there will be an end to it.

Mr Smyth: But you have to withdraw, too. You withdraw first.

MR SPEAKER: I was about to make that very point. The point is this: I don't want this going on back and forth. I am tired of it. It has been going on for far too long and I think other members of this chamber feel exactly the same.

MR HUMPHRIES: Mr Speaker, as I have indicated, the government will conduct these negotiations on a principled basis, ensuring that we address the issues which properly fall within the purview of government. We will not make a decision based on any one individual's grandstanding. We will make a decision based on what is in the best interests of the ACT community. As well, we will certainly respect the sensitivity of the issues that arise here as far as the Bender family is concerned.

Lyneham tennis centre

MR CORBELL: My question is to the Minister for Urban Services. Minister, in response to a question asked on 8 August this year in relation to the Lyneham tennis centre, you said:

> The developer was finalising the finance arrangements. The understanding I have been given is that the funds will be available during the week commencing 13 August 2001.

It is now 29 August 2001 and another deadline has passed, despite your repeated assurances. When is the next deadline for payment of outstanding creditors?

MR SMYTH: I understand that the proponent now has financial approval; that he has written to all his existing creditors asking them to confirm payment details. My expectation is that those payments will begin and, as I think the letter says, be completed by 7 September.

MR CORBELL: Given the number of extensions of these deadlines, what action will you take if the debts are not paid by that time?

MR SMYTH: It is hypothetical. The correspondence that is going out from the proponent indicates that he now has the approval of the financial institutions. He is seeking the details, and the payments will be made.

Gorman House

MR WOOD: My question is to the minister for the arts. Occupants of Gorman House, that wonderful arts centre, are anxious because of rumours, I expect unfounded, that suggest that the centre is to be closed or faces some loss of support. Can you allay their fears by assuring them of the government's continuing strong support?

MR SMYTH: I thank Mr Wood for his question and for some notice of it. The government has no intention of closing Gorman House. For those members who are not familiar with Gorman House, it houses organisations such as the ACT Writers Centre, the Choreography Centre, the Canberra Youth Theatre Company, the Canberra Contemporary Art Space, as well as many individual artists. They contribute significantly to the community. We have no plans to close Gorman House.

MR WOOD: I thank the minister for that. Can the minister confirm that it will continue with the same level of support as it has had in the past?

MR SMYTH: I cannot guarantee what incoming governments may do. This government is certainly committed to the arts, and we are very proud of our record in fostering the arts. In this year's budget, there is money for the link project, the contemporary glass project, as well as several other initiatives. Certainly the commitment from this government to the arts is firm. What those opposite may do in office they will have to answer for.

Government boards—women representatives

MRS BURKE: My question is to the Chief Minister. Can the Chief Minister advise whether the government has any policy about the percentage of women on boards within the ACT government? What has the government achieved? Is the Chief Minister aware of any other similar approaches and policies?

MR HUMPHRIES: Yes, indeed I can give advice on that question and indicate that the government does have a very clear policy, and has had a clear policy for the entire period of its term in office, for the promotion of women onto ACT government boards and committees.

The Australian performance in this area is not particularly good. The national average of women on boards and committees in governments across Australia stands at about 29 per cent. I am pleased to say that the ACT government has achieved a result which is much better than that. In fact, yesterday, in presenting a report on the implementation of the women's action plan, I indicated that 46 per cent of positions on government boards and committees were held by women. I am now advised that the figure is higher than that. It is actually 47 per cent. That is an increase from 40 per cent in the space of only the last couple of years. I am very pleased that that kind of advance has been made in a relatively short period of time.

I note that Mr Stanhope, in launching the women's policy of the Labor Party—almost a contradiction in terms, I would have thought, in the present circumstances—said that they intended to set a target of 50 per cent. That is fine, but they were a long way from it when they were last in office, and I suspect that by the time they reach there the target will be very close to being met, if not well exceeded.

I would hope that if Mr Stanhope succeeds in winning the election in October, as he tells us he will, he will acknowledge the substantial contribution to achieving that target of 50 per cent of women by the previous Carnell and Humphries governments, but somehow I do not think he will.

We have the highest percentage of women appointed to senior positions in the public service, through appointing people not on quotas but on merit. I am very proud of the gains that have been made in recent years in that respect. We continue to promote women actively to ensure that all members of this community have a chance to make a contribution to the quality of life in this city and to the administration of our city at every level.

MRS BURKE: I ask a supplementary question. Chief Minister, in your answer you referred to the government's strong performance in appointing women to senior positions in the ACT public service. I did not catch the figure. Can the Chief Minister advise the Assembly of the percentage of senior public servants who are women?

Mr Quinlan: Strong, intelligent women, like yourself, Jacqui.

Mr Hargreaves: Ha, ha.

MR HUMPHRIES: I see that Mr Hargreaves thinks that is rather amusing. I am not sure why. I do not think it is amusing at all. I think it is very heartening to see how many women have received promotion and are doing a very good job within the ranks of the ACT public service. Currently 36 of the 106 people in the executive are women. That is about 34 per cent. Of officers at senior officer C or equivalent rank, 48.3 per cent are women. That does not include some agencies such as the Legislative Assembly, Actew, ACTTAB and so on, but substantially across the government that is the figure that has been reached. As I have said, these are promotions that have been achieved on the basis

of merit by taking talented women and giving them encouragement and rewarding their improvement in capacity with positions that merit their capacity.

One of the most significant things we can do in helping women to achieve their proper position in public life is to acknowledge their achievements. In a sense, this answer today is part of doing that. It was disappointing to see in the launch of the Labor Party women's policy—

Mr Berry: How many did you recruit to the fire service in six years? Not one.

MR HUMPHRIES: I know you are a bit upset, Mr Berry, about this fact. The fact is that, despite not having a quota system, we have made a lot of progress. Of course, for you people, not having had any women in your ranks for the last three years must rank as a fairly galling fact. I would have thought that in launching the women's policy not mentioning the name of a single Labor woman candidate in your media release was not exactly designed to engender confidence that you people are going to put Labor women into your next Assembly team. I wonder which one of you is going to kiss a seat goodbye to make sure that happens.

I am very proud of what we have achieved. It stands for itself. I hope that we can continue that record into the next Legislative Assembly.

Free school bus scheme

MR HARGREAVES: My question is to the Minister for Urban Services, and maybe the Minister for Education. It relates to the government's free school bus scheme that is due to commence operation next week. I am aware of a situation in which an 18-year-old disability pensioner attends courses both as a year 12 student at Copland College and as a literacy student at Bruce TAFE. The student lives in Dunlop and until the introduction of the government's new scheme received as an entitlement of her pension free travel between home and both centres of study. This entitlement will end on 28 September, after which she will only be entitled to free travel between home and Copland College. Can the minister say why someone who is already disadvantaged should be further disadvantaged by the so-called free school bus scheme?

MR SMYTH: Mr Speaker, we have said that those who have free travel rights will retain those free travel rights. That will be maintained. If Mr Hargreaves wants to provide the details, I will certainly look into the case.

MR HARGREAVES: Thank you very much. This is but one example. My supplementary question is this: how are you going to level out the playing field?

Mr Humphries: It is a bad example because it is not typical.

MR SPEAKER: Order!

MR HARGREAVES: Will I start again, Mr Speaker?

MR SPEAKER: Yes, please.

MR HARGREAVES: Thank you very much.

Mr Humphries: We could be here all day.

MR SPEAKER: Yes, we could.

MR HARGREAVES: You have kept us here all day. My supplementary question is this: given that this is an example of how somebody will be disadvantaged, and there is no suggestion that people will not suffer a similar disadvantage in the future, how are you going to level out the playing field so that young people are not disadvantaged through mild physical disability, geography or the choice of school?

MR SMYTH: Mr Speaker, as we have said, everyone who is entitled to the free travel will get that free travel. It is interesting that Mr Hargreaves states in his question that the young student in question now gets free travel to school, something that she and others around her may not have had before. As somebody who was on a benefit before, if she had free travel rights, we will maintain those travel rights now.

Hospital services

MR HIRD: I wonder what happened to Roberta McRae and who turfed her out. My question is to Mr Moore, Minister for Health, Housing and Community Services. Minister, can you inform the house of what steps the government has taken to ease the pressure on hospital emergency staff and improve the services for patients? Can you also inform the house of what measures the government has taken to assist older people who need post-hospital care? This is my last question to you, Minister. Has the $344 million got anything to do with it?

MR MOORE: Thank you, Mr Hird, for the question. I will take the last part of the question first, if I can. The $344 million does have something to do with it. If we had been operating with a $344 million operating loss, it would have been extraordinarily difficult for us to provide the hospital with the extra $20 million it was given from the budget previous to the last budget.

Yesterday I mentioned the low acuity clinic, sometimes referred to as the GP clinic, at the Canberra Hospital. I can add to that that negotiations have been going on with the Division of GPs to see whether they will develop a full GP clinic and whether we can do that in a coordinated way, perhaps with the department purchasing some extra services from the GPs to make sure we have operating on the grounds of the Canberra Hospital, which include the grounds surrounding the National Capital Private Hospital, a full GP clinic. I think that will provide some help—in the way the Florey clinic, which was a 24-hour GP service, used to operate. The negotiations are well under way in regard to something along those lines.

One of the most important things to ease pressure on hospital emergency staff is to break the bed block which is creating a significant part of the problem both here and right across Australia. Some people may have seen the New South Wales minister commenting on these issues on television either last night or the night before.

You may recall that in the budget we introduced an expenditure item of some $1.5 million for post-hospitalisation care for older people. I inform members that the convalescent post-hospitalisation process is well under way. We are doing it with appropriate consultation with the Aged Care Advisory Council, GPs, the Older Women's Network and the like. We have already successfully negotiated with the Commonwealth for transitional services at Morling Lodge to provide 11 beds.

The department is currently examining the Mapleston Place, Chapman, hostel—which you may recall was used for disability services some years ago—as a possible location for a step-down facility for about 10 places. It will require some upgrading work, so there will be a little bit of a time delay there.

In addition, a tender is being developed to provide care and support services to run a social facility for 12 months as a trial and to check the evaluation. We are also looking for other flexible solutions to help with post-hospitalisation care.

I am very pleased that in both these areas—the GP clinic and post-hospitalisation care—we have support from the Labor Party. Earlier today I was speaking about getting a coordinated approach. I think it is very pleasing that that is the case. I recognise that from February onwards Mr Stanhope has recognised the direction that has been set in health. It was deliberate on my part, when I delivered *Setting the Agenda*, to get a coordinated approach to health. Mr Stanhope recognised that. The first paragraph of an article on 7 February 2001 in the *Canberra Times* under the heading "No health overhaul: ALP" reads:

> ACT Labor's health policy would not be substantially different from Health Minister Michael Moore's, Opposition Leader Jon Stanhope said yesterday.

It then goes on with qualifications. I do not want to misrepresent those. So that I do not, I table that article and seek leave to have it incorporated in *Hansard* so that someone reading this answer will not be misled.

Leave granted.

MR MOORE: Thank you, members, for granting me leave for that. I present the following paper:

> Health—Copy of newspaper article entitled "No health overhaul: ALP".

The article read as follows:

> ACT Labor's health policy would not be substantially different from Health Minister Michael Moore's, Opposition Leader Jon Stanhope said yesterday.
>
> Mr Stanhope said he would not be "bluffed or bullied" into disclosing detailed policies until closer to the October election, but signalled Labor was unlikely to call for a major overhaul of Canberra's health system.
>
> However, Labor would focus more on serving marginalised groups such as the elderly, disable and poor. There would be less emphasis on private health insurance and more on boosting the public system.

> "I think there will be an awful lot of similarities, that's inevitable," Mr Stanhope said. "In terms of the delivery of services the Labor Party aspires, as does the Liberal Party, to deliver a pre-eminent service."
>
> Funding and management of the Canberra Hospital looks set to become an election battleground, with Mr Stanhope describing the hospital and its role in service delivery as "pivotal" issues in the coming months. Labor would look at "intractable" problems of service delivery around Canberra.
>
> Mr Moore said he did not expect Labor would try to reform the system. "It would surprise me to see a significant change of direction of Labor in health," Mr Moore said.
>
> He identified Aboriginal health as one of the Government's big challenges in the lead-up to the election, saying, "Nobody has put such a significant increase in funding into disabilities as the current Government."
>
> Mr Moore also defended the Government's focus on encouraging Canberra Hospital patients to use their private health insurance, saying private funds would boost the public system.
>
> Mr Stanhope said a Labor government would be more conscious of the inequalities created when some people could afford to pay for treatment while others had to wait.
>
> Labor still had nine months to finalise its policies before the election.

MR MOORE: Quite a range of things have been done to improve services for people approaching the hospital for their general health and to help reduce pressure on the hospital. I hope that whoever takes over this task from me will be able to continue that work in getting a coordinated approach between government and opposition. That will enhance the process.

Drag racing

MR BERRY: My question is to Mr Stefaniak in his capacity as minister for sport. Last week the minister advised the Assembly that he had agreed to spend $40,000 on a study into the economic benefits and siting of a new drag strip in the ACT that is to replace the drag strip that disappeared because of the inactivity of the government when they failed to settle the lease arrangements in favour of the airport owners out there in a secret deal. Members are probably curious about the economic effects of the drag strip as it was then reported. It was something like a couple of million dollars a year loss to the territory when the government failed to do its job.

MR SPEAKER: Would you mind asking your question?

Mr Smyth: On a point of order, Mr Speaker: is there a question in this? He rambles, as he always does. It is hard to understand where we are going.

MR SPEAKER: I think he is asking about the $40 million a year. Ask your question please, Mr Berry.

MR BERRY: Indeed, Mr Speaker. There is necessary background here. This $45,000 would not have been necessary if the government had done its job. We would still have a drag strip out there bringing economic benefit to the territory and providing a place for people to do burnouts.

MR SPEAKER: Sit down, Mr Berry.

Mr Smyth: On a point of order, Mr Speaker: questions shall be concise. I believe that is what the standing orders say.

MR SPEAKER: This has gone on for far too long.

MR BERRY: It says the same about answers too. I will apply the rule the same way they apply it to themselves.

MR SPEAKER: Ask your question.

MR BERRY: Mr Speaker, we also know that the government spent $300,000 on not getting a Belconnen pool. Minister, would you tell the Assembly is this what you do to create the impression that the government is doing something on things like pools and drag strips when they are really doing nothing?

MR SPEAKER: Sit down, Mr Berry. There is no question, thank you. Mr Rugendyke, do you wish to ask a question?

Mr Berry: Hey, hey! On a point of order: I said, and I will read it out to you—

MR SPEAKER: I repeatedly asked you to ask your question and you—

Mr Berry: I said, "Is this what you do to create the impression that the government are doing something when the fact is that they are really doing nothing?" That is a question.

MR SPEAKER: Thank you. That is the question.

Mr Moore: On a point of order, Mr Speaker: even if that was a question, standing order 117—

Mr Berry: You are being oppositionist, Michael.

Mr Moore: No, I am not being oppositionist. I am working with you, Wayne, to try to teach you how to use the standing orders in a way which will help us all cooperate and love each other. Mr Speaker, standing order 117 (a), the first of the rules for the questions, says questions shall be brief and relate to a single issue. Mr Speaker, the question clearly is out of order.

Consumer credit laws

MR RUGENDYKE: My question is to Mr Stefaniak as fair trading minister. At last month's Ministerial Council for Consumer Affairs meeting in Canberra, which you chaired, was the passage of New South Wales payday lending legislation outside the uniform consumer credit code raised, and was New South Wales threatened with expulsion from the ministerial council?

MR STEFANIAK: I would have to think about whether or not it was raised. I would have to see whether someone else has a memory of that. Whether it is outside the code, my understanding—and I could stand corrected on this—is that that was legislation which had a tick in the box from some agency involved in national fair trading. I will get back to you on that, Mr Rugendyke. I have a mind's eye view that there was something special in relation to that legislation and that it was approved somewhere in that process—certainly not at that meeting. Let me get back to you on that, Mr Rugendyke. What a shame I could not answer Mr Berry's tirade. I had great answers on that one for him.

MR RUGENDYKE: I think you will know the supplementary question, Minister. It is important to clear it up for the Labor Party. If the New South Wales precedent—and it was a precedent—did not result in expulsion from the council, how can the threat to expel the ACT be taken seriously?

MR STEFANIAK: Again, I need to check out the status of the New South Wales legislation. You need to get one thing in perspective here. We are a small jurisdiction. You need to look at some of the ramifications for consumers if we do not follow a major code.

Let us say we went alone and passed legislation and for some reason we did not get expelled. What would happen in the interim? Because we are a small jurisdiction and because credit agencies would be able to hoist extra fees on our consumers, consumers would end up paying more than they pay at present and would pay under a national scheme.

I think what happened yesterday was eminently sensible to the majority of this Assembly. Let us be part of a national scheme and let us not do something that at the very best would pass on unreasonable costs to ACT consumers.

Nurses

MR SPEAKER: I call Mr Osborne. You have the last question to be asked in this Assembly. Enjoy it.

MR OSBORNE: Mr Speaker, this is a special question. I thought that I would be fair and I approached the outgoing minister for health and offered to ask any question he wanted, although I have reserved the right to ask a supplementary. So here it is.

Mr Berry: On a point of order, Mr Speaker: this is not a question without notice.

MR OSBORNE: Yes it is. He had no notice of it, Mr Speaker.

Mr Berry: I do not think he can ask it.

MR SPEAKER: You have raised this sort of matter before. It is one of those strange anomalies.

MR OSBORNE: I will just read what I was given, Mr Speaker. Minister, you have been health minister for the past 3½ years and have done a great job. What advice do you have for the incoming health minister about solving the nursing situation?

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

Mr Corbell: On a point of order, Mr Speaker: the question asks for an expression of opinion and it is out of order.

MR SPEAKER: Actually, Mr Corbell, I was wondering whether I would not use standing order 117 (g), which states that the Speaker may direct that the language of the question be changed, if, in the opinion of the Speaker, it is unbecoming or does not conform.

Mr Corbell: Mr Speaker, it asks for an expression of opinion and it is out of order.

MR MOORE: On the contrary, Mr Speaker, it is not an expression of opinion but rather advice as to what would be the appropriate course.

Mr Corbell: On a point of order, Mr Speaker: I do not want to ruin Mr Moore's fun but you would have thought that if he had been here for 12 years he would know that standing order.

MR SPEAKER: True.

MR OSBORNE: I will change the question, Mr Speaker; I will rephrase it. Minister, you have been health minister for the last 3½ years—

Mr Quinlan: You have been minister for 3½ years and have done a great job.

MR OSBORNE: No, I am not reading that again. Tell us about your experiences as health minister in relation to nurses and what you would do if you were health minister in the next parliament.

Mr Corbell: On a point of order, Mr Speaker: it is a hypothetical question.

MR SPEAKER: The second part is hypothetical but the first part is not.

MR MOORE: Thank you, Mr Speaker. My experiences have been very positive in dealing with nurses.

Mr Berry interjecting—

MR MOORE: I hear Mr Cackle Berry.

Mr Hargreaves: You had to withdraw that yesterday.

MR MOORE: Well, would you prefer Mr Prickle Berry?

Mr Berry: On a point of order, Mr Speaker: I thought, after the speech this morning that there would be none of this, that new standards were going to be set.

MR MOORE: Had Mr Berry been here for the whole speech he would have heard me say that it does not mean that a bit of sense of humour and a bit of thrust and cut—they were not my exact words—across the chamber were not a normal part of politics. I did talk about sustained personal attacks in contrast to that.

Mr Speaker, the issue of nursing has been a significant challenge. I have done a series of things to try to move that along. Members will be aware of the 12 per cent offer that was in the middle of an enterprise bargaining agreement. There has also been special education support and a range of other supports.

I think a fundamental change still needs to happen in respect of nursing, naturally negotiated with unions and so on. We have professional nurses on a ward doing not only the work for which they have their degrees and for which they are trained but also a series of other tasks which other people could do with far less training. I think one of the challenges, particularly considering the shortage of nurses, is for us to consider the introduction of health care assistants as well as a stronger use of enrolled nurses.

I think it is time to begin to look at the restructuring of how our hospitalisation services are delivered so that we can deliver the best services we possibly can, and so that nurses in particular who have a particular level of education can work at the level at which they are employed. I think that will be an important challenge for the future and for the future minister. It is, of course, a challenge that will have to be met in coordination with the nurses themselves and with the nurses union.

If indeed Mr Berry is again the minister for health, as may well be the case, I hope that he has much more success in building a strong relationship with the nurses union than either I did or certainly he did last time.

MR OSBORNE: Mr Speaker, I have had some assistance from Helen Moore for my supplementary question. Minister, now that you are leaving politics will you once and for all do something about that horrible beard of yours?

MR MOORE: Mr Speaker, can I just make a little comment on that—perhaps an personal explanation might be an appropriate way to deal with it. If I do something about my beard, none of you will know because I assure you that none of you will recognise me.

Mr Humphries: Mr Speaker, there is not much point in doing so but I ask that further questions be placed on notice.

MR SPEAKER: Ministers, I would remind you of new standing order 118A which states that, if a minister takes a question on notice, that answer or explanation must be provided prior to the adjournment of the Assembly today.

Landfills

MR SMYTH: Mr Speaker, there are a few questions that I have taken on notice on which I can give additional information. Mr Osborne asked about dumping at ACT landfills. It is legal for general commercial waste to be accepted at landfills operating in the ACT because there is no legislation that prohibits transport of this material across state and territory borders. Landfills of the ACT accept commercial waste from the local region. For example, there is no landfill in Queanbeyan. Businesses in that city utilise our landfills at applicable commercial rates. This cooperation also applies to recycling, whereby the Queanbeyan City Council and other south-east region councils can take advantage of the recycling opportunities in the ACT. However, in practice, the quantity received from sources beyond Queanbeyan is low.

The ACT continues to monitor the situation and the amount coming in from over the border. I am happy to have the matter raised through the regional leaders forum with a view to maintaining cross-border stability in achieving the no-waste goal. Waste coming into ACT landfills is charged according to environmental harm, not location or source, and for general commercial waste this is $33 per ton, including GST. This fee is the same for the ACT and New South Wales regional businesses.

Workers compensation premiums

MR SMYTH: On 21 August Mr Osborne asked a question about workers compensation premiums in which he said that several months ago he had moved a motion on workers compensation premiums and the motion had been passed. He went on to say:

> 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 Speaker, though seemingly a straightforward matter, in practice implementation of this motion has proven to be challenging. The motion called on the government to set a maximum rate of 15 per cent as the workers compensation premium payable by group training companies, and, furthermore, that the operation of any maximum rate so determined be limited to a period of two years. Importantly, the debate on the motion centred on group training companies that employ apprentices in the construction industry, and especially one firm called CITEA.

At the time of the Assembly's consideration of the motion it was conjectured that both CITEA and another construction industry apprenticeship scheme would face workers compensation premiums far in excess of 15 per cent of wages and salaries. It is the government's understanding that these companies ultimately were able to negotiate policies for 2001-2 that were either at a premium rate less than 15 per cent or which have performance based provisions that may result in a final premium lower than this level.

When the Department of Urban Services examined the legislation in detail to prepare the instrument to give effect to the motion, officers concluded that there may be some doubt as to how to proceed. Advice was then sought from the Government Solicitor's Office on how to proceed with the implementation.

The GSO concurred that there were problems with implementation. Use of section 20 of the act, which provides the minister with the power to determine a maximum premium rate, had particular difficulties associated with it. In 1991 the then Deputy Chief Minister, Mr Berry, introduced, and the Assembly passed, a new section 20 of the Workers Compensation Act 1951 which says, "An insurer shall not charge or accept in respect of a prescribed insurance policy a premium greater than that calculated in accordance with the prescribed maximum rate of premium." However, the act does not provide any mechanism for the calculation of the premium or the prescribed maximum rate.

The explanatory memorandum that accompanied the bill notes, "An insurer may not charge a premium that is greater than that prescribed in the regulations as the maximum rate of premium." However, Mr Speaker, no minister has made regulations pursuant to section 20. In the absence of regulations that describe how the maximum rate of premium is prescribed, section 20 is rendered meaningless and cannot be immediately used to give effect to the motion.

An alternative approach that the Government Solicitor offered to give effect to the motion was to declare a new prescribed insurance policy under the act by introducing a new schedule under subsection 16 (1) (b). The new schedule would be an additional prescribed insurance policy which would set a maximum premium for organisations employing a specific group of territory employees as required by subsection 16 (2) (c).

In either case, to pursue either option would require further legislative action to address issues not currently dealt with. These issues would include the creation of a legal definition of a group training company consistent with the intent of the Assembly in passing the motion, a mechanism to provide and register these group training companies, amendments to section 17D, dealing with insurer obligations, and amendments to section 6B, which determines categories of workers. The Department of Urban Services, since receiving this advice, has been working actively to resolve the issues that are impeding implementation of the motion.

Mr Speaker, good progress has now been made on how to define group training companies, to register them, and to specify the category of workers to be covered for the purposes of the capped premium. Identification of the precise amendment of section 17D of the act needed to ensure that approved insurers are required to offer companies that are defined as group training companies a prescribed policy approved specifically for group training companies or as defined in the regulations is also nearing completion.

Section 6B enables the minister to determine the categories of workers for the purposes of sections 18 (1) (b) (i) and 23F (b) (i) and schedules relevant to section 16 of the act. Section 6B will need to be amended to ensure that the data collection for group training companies is consistent with the new accident information management system database being developed by WorkCover. The minister would then have to declare this determination in the *Gazette*. The department has nearly concluded its work in these

areas and will be shortly issuing drafting instructions to Parliamentary Counsel to prepare the necessary legislative changes.

MR OSBORNE: Mr Speaker, I seek leave to speak to that issue.

Leave granted.

MR OSBORNE: It is outrageous that on the last sitting day of this Assembly the minister comes in here and drops that on the table. It's just scandalous. This Assembly passed a motion. At what stage did the department discover there were problems? On what date after the motion was passed did these issues arise? You come in here on the last sitting day, after question time, and drop that on the table. It's just unbelievable, Mr Speaker.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): Mr Speaker, I seek leave to make a short statement in response to that.

Leave granted.

MR SMYTH: When this motion was put before the Assembly we warned the Assembly that there were difficulties in implementing it. The department has been working towards implementation since that time. Mr Osborne asked the question on 21 August. I was absent for that day. Upon my return I was given this answer in reply to Mr Osborne's question.

Lyneham tennis centre

MR SMYTH: Mr Speaker, on 19 June Mr Corbell asked me whether the outstanding statutory charges owed by the developer to the territory had been paid in accordance with the conditions of the development approval. Mr Speaker, the additional information is that on the date of the approval of this development Mr Humphries also wrote to the lessee stating that his decision to approve the application was on the clear understanding that written confirmation would be provided within seven days—that would have been 4 June—that all outstanding monies had been paid and that unconditional financing for the project was available. Mr Humphries' letter was issued on the basis of representations made to him by the developers at the time of the approval.

It should be noted that monies payable in connection with the approval, not including the payment of creditors, will not become due unless the lessee and the developer decide to proceed with the approval. In this context, the monies that are required to be paid include amounts due to the territory to complete a previously approved related development application for the consolidation of blocks 6 and 10 section 64 Lyneham, private contractors and businesses for works carried out on the site in preparation for the women's tennis competition held in January 2001, and private contractors and businesses for work undertaken in relation to the current development application.

Mr Speaker, the territory has not to date received payment of these monies, including statutory charges, or those required to be paid by the developer in order to activate the approved development application for the Lyneham tennis centre. The lessee and the developer are continuing to work towards resolution of this matter.

The government understands that the developer received a loan approval on 23 August 2001 to cover the purchase of the Lyneham tennis centre, the payment of creditors, and all other costs associated with the transaction. Further, the developer has advised that it will be ready to settle both the purchase and payment of creditors on or around 31 August. I understand that that is now 7 September, Mr Speaker.

A settlement date due to enable the transfer of existing ACT Tennis Holdings to the developer can now be scheduled. This will include the payment of monies to the territory in relation to the transaction as a condition precedent to it being finalised. A scheduled date is necessary to enable the calculation of exact amounts payable up until the date of settlement and the arranging of cheques in respect of land rent owing and interest payable on stamp duty that has been assessed.

Mr Speaker, it is disappointing that the developer's commitment to financing in association with the approval of the development application on 28 May was not fully honoured within specific time frames. Nevertheless, the government is encouraged by the progress during the last few weeks and looks forward to a resolution of the matter without further delay.

Canberra Hospital

MR MOORE: Mr Speaker, I have a response to five questions. I think I can keep them fairly concise. The first relates to an additional matter taken on notice today from Mr Stanhope about staffing at the renal unit. I have been given advice that the acute dialysis unit is experiencing similar staff shortages to the Canberra community dialysis centre. It is partially because of a significant shortage of renal trained nursing staff in addition to the increase in the number of patients being dialysed. The situation has been exacerbated by rostered staff being on long-term sick leave. To add to the difficulties, there are a number of requests from interstate dialysis patients for dialysis being undertaken in Canberra while visiting on holidays. At the moment we are talking about six patients. It is very important that we maintain that because there are people in Canberra who wish to go to other places, so we have to arrange that as well.

A series of strategies are being considered to deal with it. We are rearranging dialysis treatment to coincide with days when staffing is slightly better, and asking trained renal staff to do extra shifts and overtime. They have already been doing this. I visited somebody in the renal unit more than a month ago now and the head of the community renal unit at that time was doing his second shift. I used the opportunity to thank him for that, and I will use this opportunity to thank staff for the work they are doing now. They also try to negotiate with their holiday patients to make other arrangements.

In reply to the point Mr Stanhope raised, they are considering reducing stable patients, where suitable, to have two rather than three dialysis treatments per week. My advice is that this would be an interim measure only. It has been done in other hospitals, but they consider it a last resort. At this point they have not implemented the holiday patient or

changes to treatment frequency strategies. They are just considering them, so they have put them out for discussion.

Recruitment activity is vigorous, but to date it has not been fruitful. We have one agency nurse available for two weeks in September, through a Sydney agency. The Canberra agencies have not been able to fulfil our requests. So there are quite a number of issues with that renal unit.

Public hospital waiting lists

MR MOORE: Mr Speaker, on 29 August Mr Rugendyke asked me a question about hospital waiting lists and a brochure. The first draft of that brochure was put out. It was widely distributed for comment. A second draft was produced and I am advised that it is anticipated the brochure will be complete and ready for public distribution by the end of September this year. It will be widely distributed, for example, in hospitals, doctors' rooms, pharmacies and health centres. Mr Speaker, should I lose my beard, the photo of me that is on it will not be able to be distributed widely, and that would be a disappointment to me. The draft of the thing is here and I will table it for the information of members. It is a pamphlet about access to elective surgery. I present the following paper:

> Elective surgery—Copy of ACT Department of Health, Housing and Community Services brochure "Are you waiting for elective surgery?"

Individual support packages

MR MOORE: Mr Osborne, on 29 August, asked me about individual support packages, how many people access the ISPs, and what is the total cost each year. Mr Speaker, the short answer is that approximately 103 individuals are receiving approximately $4.2 million in packages, ranging from approximately $8,000 to $234,000. This is an increase over the last budget. The additional individual support arrangements during the last financial year were all auspiced by the non-government sector. The department is currently reviewing the process for considering requests and allocating individual funding. The review will take into account the outcomes of the disability inquiry, and consultation with the sector will be undertaken before any changes to the program are introduced.

Mr Speaker, when I first became minister I said there were two areas where I felt we were under-funded. One was in disability services, the other was in mental health. We have made very significant increases in those, but I still think there is a challenge. I still think there is an unmet need in both areas.

Cleaning contract

MR MOORE: Mr Speaker, yesterday, on 29 August, Mr Hargreaves and Mr Berry asked me questions with regard to an article in the *Sunday Times* on 26 August about the managing director of a high profile company. My answer is as follows: ACT Housing has a contract with a company named in the *Sunday Times* article to provide common area cleaning at some of its complexes up until 30 September 2001. I am advised that the contract with the company has a clause which requires the company to seek, in writing,

the written consent of the principal if it wishes to use subcontractors. This requirement has again been drawn to the company's attention by ACT Housing today. I am also advised that ACT Housing's contract with the company contained significant protections for both subcontractors and employees.

Contracts for cleaning and other property services are in the process of being tendered by the new total facilities managers who will take over full responsibility for those areas on 1 October 2001. The contracts with the total facilities managers require them to follow ACT government procurement policy in their tender process for selecting subcontractors to work on ACT Housing properties. I think that deals with each of the issues that were raised.

Nursing home beds or high-needs beds

MR MOORE: Mr Wood asked me a question about aged care or high-needs beds, and I said I would provide the information to him, but I think it is better to provide it in the Assembly. I remind members that aged care is a Commonwealth responsibility. However, the answer you were seeking is that 654 high care places are located in the ACT, with a further 50 high care places to be allocated in the 2001 age care approvals round later this year. Of these 654, 635 of the high care residential places are in operation at the moment in the ACT. The gap between those high care places that have been allocated to the ACT and the number of operational beds therefore is 19. These high care places were allocated in the 2,000 age care approvals round and will become operational upon the conclusion of the capital works.

Gungahlin Drive extension

MR CORBELL: Mr Speaker, I would like to ask the Minister for Urban Services a question in accordance with standing order 118A.

Mr Humphries: He is not here to ask.

Mr Moore: Well, another minister can act on his behalf if we can't—

MR CORBELL: Well, it is the conclusion of question time. That is when I ask the question.

Mr Moore: That's correct, yes.

MR SPEAKER: Yes. Proceed**.**

MR CORBELL: Mr Speaker, yesterday, in question time, Mr Smyth took on notice a question from me in relation to what advice, if any, he had received from the National Capital Authority in relation to the gazettal or otherwise of the variation to the Territory Plan relating to the Gungahlin Drive extension. The minister has not provided the answer at the conclusion of question time today to that question he took on notice. I appreciate that whilst the standing order requires him to provide that answer or an explanation by the adjournment, but I thought it was appropriate to remind the minister that he did take that question on notice and I would appreciate an answer.

Papers

Mr Speaker presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act—
Authority to broadcast proceedings pursuant to section 8 (4) in relation to proceedings of the Assembly for—
28 August 2001, concerning debate on the motion relating to disallowance of variation 138 to the Territory Plan, Gungahlin Drive Extension, dated 28 August 2001.
28 August 2001, question time.

Study trip

Report by Mr Rugendyke MLA—Conference for independent Members—Canberra—10 and 11 August 2001.

Executive contracts

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

Public Sector Management Act, pursuant to sections 31A and 79—Copy of executive contract or instrument—
Michael Szwarcbord.

I ask for leave to make a statement in relation to the contract.

Leave granted.

MR HUMPHRIES: Mr Speaker, I would like to alert members to the issue of privacy of personal information that might be contained in the contract. I ask members to deal sensitively with the information in respect of the privacy of the individual executive concerned.

Planning and Urban Services—Standing Committee
Report No 78—government response

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.47): Mr Speaker, for the information of members, I present the following paper:

Planning and Urban Services—Standing Committee—Report No 78—Draft Village of Hall Master Plan *(presented August 2001)*—Government response.

I move:

That the Assembly takes note of the paper.

Mr Speaker, it is with pleasure that I table today the government's response to the Planning and Urban Services Committee report on the draft village of Hall master plan. The government's vision for Canberra is of a dynamic, diverse and sustainable community and economy. Protection of our heritage and maintaining a range of housing choices close to jobs, facilities and services is part of that vision. In recent years the government has extended options for urban living through facilitating inner city apartment development. The other end of the spectrum is rural residential development, which is available in Hall.

Mr Speaker, the village of Hall is recognised as having a unique role in the ACT as a rural village. It provides a contrast to the more recent suburban development associated with the creation of the national capital. The master plan for Hall will enhance its role as a rural village.

The committee recommended that the draft village of Hall master plan be revised to include a number of elements and that once revised the document be discussed with Hall residents prior to being speedily finalised. The recommendation for finalising the Hall master plan is strongly supported. The government supports all bar one of the committee's recommendations and is keen to implement them.

The government supports in principle the removal of the link between Hall and Kinlyside subject to further planning studies being undertaken to examine the most appropriate functional link between the two communities. Planning and Land Management is currently finalising the Hall master plan and will continue to consult with Hall residents. I will ensure that the final master plan is consistent with the Heritage Places Register.

The government will now proceed with the finalisation of the Hall master plan with the view to completion in time for Hall's centenary celebrations in November this year.

Question resolved in the affirmative.

Proposed residential land use policies
Paper

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.48): For the information of members, I present the following paper:

> Land Use—Report on Discussion Paper Consultation, 21 April-23 July 2001—Proposed Residential Land Use Policies.

I move:

> That the Assembly takes note of the paper.

Mr Speaker, it is with pleasure that I table a report on the outcome of the second major round of public consultation for ACTCode. Members will recall that, following a resolution of the Assembly on 28 March 2001, I directed PALM to undertake a further three months of consultation on ACTCode. That period concluded on 23 July 2001.

Members will note from the report that the consultation process was very comprehensive. In addition to the discussion paper, PALM prepared a series of information sheets on ACTCode. These were made available at meetings and workshops, through the PALM web site and at the PALM shopfront. Altogether eight workshops were held during the consultation period with community members, Local Area Planning Advisory Committees and industry representatives. Several of these workshops involved small groups meeting for more than five hours to discuss the ACTCode proposals.

PALM received 58 submissions, many of which provided detailed comments on the proposals. Many groups and individuals have clearly gone to a lot of trouble to prepare a detailed submission, and I thank them for their interest and for those submissions.

The consultation has confirmed that there is widespread support for a stronger commitment to conserve and enhance Canberra's garden city character. The proposals for wider street reserves and better quality public open space in new subdivisions have been very well received. The government has therefore decided to adopt these provisions of ACTCode for use in new subdivision planning. As from today the ACTCode requirements will be included in all new deeds of agreement between government and residential land developers.

Mr Speaker, several submissions referred to problems with the proposed definition of terms such as "basement" or "gross floor area". In response the government has agreed to incorporate a national set of development assessment definitions into the Territory Plan for use in ACTCode, as recommended by the development assessment forum. These definitions have been supported by all state and territory planning departments, state and territory local government associations, as well as industry and professional representatives. The agreement on 19 national definitions will help reduce the complexity of planning systems and time delays associated with interpreting multiple definitions.

Most of the comments provided in the workshops and submissions focused on development in existing residential areas rather than greenfield situations. This is not unexpected given the sensitivities surrounding urban change associated with redevelopment in the older areas of the city.

Following further analysis of all the issues raised during the consultation program, PALM will undertake the preparation of the draft variation to the Territory Plan. This process will trigger a further round of public consultation. The current program is to produce draft variation documentation for release early in 2002.

In preparing the draft variation, some of the key issues that PALM will be considering are:

- the identification of acceptable approaches to residential redevelopment, including single dwellings, dual occupancy, and multi-unit developments. This will include input from the review of dual occupancy that is being undertaken by PALM.
- The introduction of a site coverage control that would require a specific percentage of a block to be retained for soft, green landscaping.
- the future role of section master plans.

PALM is aware that ACTCode is one part of a package for enhancing planning outcomes across the city. The planning processes and staff and industry capabilities are also vitally important. So, looking toward next year, and the eventual introduction of ACTCode, PALM has commenced a program that includes:

- staff training to enhance the skills of PALM's development assessment staff;
- increased industry forums and professional development programs;
- and integration of PALM's "Designing for High Quality and Sustainability" into PALM's normal development processes.

The number and quality of the submissions received is a clear indication of the community's interest in the future planning of Canberra. I would like to acknowledge the contribution and thank all those who have responded to this opportunity for the consultation.

Mr Speaker, once again this government has demonstrated a strong commitment to high quality outcomes for our city. I have committed to some immediate improvements to our planning practices, and work will continue with the community on refining ACTCode to ensure it provides a set of tools which helps to achieve the required outcomes. I would add that the designing for high quality and sustainability program which became mandatory on 1 July will also ensure that development applications properly and sensitively reflect the values that the community has for our urban areas. We have a clear vision for the city, and the policies and programs which will realise it.

MR CORBELL (3.54): Mr Speaker, the Assembly has been provided with this report and the minister's response as a result of the resolution I moved on behalf of the Labor Party in the Assembly back in March this year. I think the minister's statement reaffirms why it was important to move that resolution in the first place. What we have seen from the minister's response today is that PALM received 58 submissions, mostly detailed, that addressed a range of difficult and controversial elements when it comes to urban design and siting policy.

The fact that the government got that level of response indicates, first of all, that people were concerned about the proposed ACTCode 2 as previously released by the minister, and, secondly, that they had not engaged in the process prior to that point. I think it also said something about the adequacy of PALM's communication and the government's communication about the new ACTCode prior to that resolution. That said, Mr Speaker, it is quite clear that the community has responded as a result of the Assembly's intervention.

Looking at the ACTCode consultation timetable which is outlined in the minister's report that he has just tabled, you can see that there has been a range of meetings with community councils, LAPACs, community organisations, industry organisations, as well as other public activities which have all given the community a chance to have a meaningful say on this document. So the action of the Assembly is certainly warranted when you see the outcome.

The government has indicated through the minister's statement today that it is already taking a number of steps in relation to new subdivision design requirements, and it has also outlined approaches it has taken in relation to staff training within PALM. Both of those are welcomed by the Labor Party.

Interestingly, in the minister's comments, he has identified that PALM will now be considering the identification of acceptable approaches to residential redevelopment, including single dwellings, dual occupancy, multi-unit development and the introduction of a site coverage control. These are all issues that were central to Labor's criticism of the draft ACTCode 2 but which the minister said were unnecessary. Now we have a situation where the minister at last, at the 11th hour, at the death knell of this Assembly, has finally conceded that it is important to have more rigorous measures when it comes to dual occupancy development and multi-unit development, and the provision of private open space as well as permeable surfaces on blocks.

Mr Speaker, that is a welcome concession, albeit at the 11th hour, and I certainly take it as an affirmation of the approach the Labor Party has adopted on this issue for the past six months. We have indicated quite clearly, time and again, that this is an issue where the government was not responding and was not putting in place the planning policies needed to ensure that the garden character of many of our established suburbs is maintained.

It will be up to the next Assembly and the next government, whether Labor or Liberal, to decide on the final process for the implementation of a new code for residential development. There is no doubt that a new code is needed, but that process of decision-making will have been greatly assisted by the approach that the minister was required to adopt following the Assembly's resolution in March, and I think, as a result of that process, it will be a much better informed decision that ultimately addresses the range of difficult and protracted planning issues that our city faces.

Question resolved in the affirmative.

Planning and Urban Services—Standing Committee
Report No 76—government response

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.58): Mr Speaker, for the information of members, I present the following paper:

> Planning and Urban Services—Standing Committee—Report No 76—Draft Variation to the Territory Plan No 155 *(presented 23 August 2001)*—Government response

I move:

> That the Assembly takes note of the paper.

Mr Speaker, variation No 155 to the Territory Plan concerns the review of part A of the plan dealing with general principles and policies. This is one in a series of variations anticipated to emerge as a consequence of the review of the Territory Plan. Key issues to emerge during the review of part A were:

- the need for the plan to be linked more clearly to current policy directions, notably in terms of sustainability, economic development, competitiveness and enterprise, the greenhouse strategy, regional links, community wellbeing and affordability.

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- the need to simplify the plan, or at least reduce the appearance of complexity, as part of streamlining the planning system, and to reposition the plan as a means of sending more positive signals both to the community and to potential investors.
- the opportunity to incorporate references to specific initiatives such as Civic revitalisation, the international airport, and the ACT greenhouse strategy.
- the desirability of expanding part A3 to provide a clearer "road map" of the workings of the plan and related elements of the planning system.
- the need to emphasise a more flexible, performance-based approach to development controls and the assessment of proposals.

The draft variation was released for public comment on 25 March 2000, with the closing date for comments being 22 May 2000. Eleven written submissions were received as a result of public consultation on the draft variation. While none of the submissions expressed opposition to the general thrust of the proposed revisions to part A, and several commented favourably on changes made, comments were made on a very diverse range of related issues.

The Standing Committee on Planning and Urban Services in their report No 76 dated August 2001 made four recommendations about the draft variation. Significantly, the committee has recommended that the draft variation be referred to its successor in the new Legislative Assembly for consideration along with draft variation No 125 dealing with the new ACTCode for residential development. The main reason for this recommendation is the inclusion of the proposed process for preparing and approving master plans in part A of the Territory Plan. This process is currently set out in a practice direction issued by the ACT Planning Authority. The intention of including this process in part A was to make it more available and accessible to the general community.

However, the committee has raised some concerns about specific aspects of the current master planning process which it would like to have further considered along with ACTCode. However, it has not raised any specific concerns with the revised goals and strategic principles proposed to be included in the rest of the revised part A.

Rather than defer the whole of draft variation 155 for consideration with draft variation 125, the government therefore proposes that the revised draft variation 155, excluding the provisions relating to master planning, be re-submitted to the committee's successor early in the term of the new Legislative Assembly. The committee's recommendation on the provisions relating to master plans will then be reconsidered at a later date in conjunction with DV 125. In this way the majority of the reforms contained within draft variation 155 and broadly supported through the consultation process will not need to be delayed unnecessarily.

MR CORBELL (4.02): Mr Speaker, the government's response to this report is disappointing because it seeks to pursue the implementation of draft variation 155 to the Territory Plan contrary to the recommendations of the Standing Committee on Planning and Urban Services.

The minister has sought to separate the issue of master plans from the broader range of issues inherent in the draft variation. The minister has indicated that he is prepared to revise draft variation 155 to remove the master planning provision and have that considered again, along with draft variation 125—that is the new ACTCode 2, residential

design policies—but he is not prepared to resubmit the entire document. In doing so he is claiming that because the committee did not comment specifically on any concerns with the goals or strategic principles proposed in the new revised part A, it was okay for him to proceed. That is a misreading of the committee's recommendation, at least from my perspective.

The committee, from my perspective, had some concerns about a number of the principles and goals outlined in the revised part A. It chose, however, not to comment on them because it believed it was more appropriate to consider the entirety of draft variation 155 at the same time that it considered draft variation 125, so it is not acceptable for the minister simply to seek to separate out the one element the committee did choose to comment upon and then say, "Well, then we assume everything else is all right." He is wrong on that point, and in that respect the government's response is disappointing and not adequate.

Mr Speaker, the government's other responses, from my quick reading of his statement and the formal written response, seem to be generally consistent with the approach recommended by the committee, and in that respect those responses are welcomed; but I should stress that the government's response to recommendation No 1, which is the key recommendation of this report, is disappointing and I think fails to fully understand the context in which the committee chose to recommend that draft variation No 155 be resubmitted. Of course, a lot of this is academic because any new draft variation or a revised draft variation must be tabled in the Assembly prior to it taking effect, and that cannot take place until the commencement of the next Assembly.

I think the government should take some heed of the issues I have raised in response to the minister's statement. I do not know whether he will be, but if, by some circumstance, he is responsible after the election for responding to these matters, I hope he takes those comments into account in the unfortunate situation where he has to do that.

Question resolved in the affirmative.

Territory Plan review
Paper

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.06): Mr Speaker, for the information of members, I present the following paper:

> Territory Plan—Territory Plan Review—Part A (General Principles and Policies—Draft Variation No 155 to the Territory Plan.

I move:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

Papers

Mr Smyth presented the following paper:

> Land (Planning and Environment) Act—Direction pursuant to subsection 37 (1)—Review of Territory Plan relating to Block 1, Section 80 Watson.

Mr Stefaniak presented the following papers:

> Criminal Justice—Statistical Profile—ACT Criminal Justice—June 2001 quarter.
> Law Reform Commission—Report No 19—Bail—ACT Law Reform Commission.

Law Reform Commission
Report

MR STEFANIAK (Minister for Education and Attorney-General): I seek leave to make a statement in relation to the Law Reform Commission report.

Leave granted.

MR STEFANIAK: I am pleased to table for the information of members the ACT Law Reform Commission's report on the laws relating to bail. It has been a long time in coming. It represents the completion of the commission's review of the territory's bail laws.

The original reference to the commission was made in December 1997. The commission was asked to review the provisions of the Bail Act of 1992 to determine whether they were suited to the public interest, in particular to the interests of victims of crime, and to report on desirable changes to existing laws, practices and procedures. In response to the reference, the commission formed a working group comprising representatives from the Magistrates Court, the Supreme Court, the Legal Aid office, the AFP and the Director of Public Prosecutions.

Following on from that group's deliberations, a discussion paper was prepared and released for public comment. The suggestions for reform were then referred to the Criminal Law Consultative Committee for further examination. That committee includes representatives from the Bar Association, the Law Society, government agencies and others concerned with criminal law and procedure. Despite a number of contentious areas, and bail certainly can be a contentious area, I am advised that the committee ultimately supported the main thrust of the proposals contained in the report.

Mr Speaker, I would like to thank all the people involved for their contribution to the report. It has indeed been a lengthy contribution over a period of time.

Recommendations of the report include reversing the presumption in favour of bail for very serious offences such as murder, crimes involving the use of a deadly weapon, or major drug trafficking—that is a good one; making it an offence to breach bail conditions; expanding the criteria to be considered when deciding whether to grant bail; enacting provisions to deal with judgment debtors; and allowing bail hearings to be heard by audio-visual link at the discretion of the court.

As members are aware, this area of the law has been the subject of considerable debate in recent times. I am delighted that the Assembly passed some very sensible amendments to the Bail Act relating to one particular area, that of repeat offences, and I think already we are seeing the benefits of that.

Bail is a difficult area of the law, Mr Speaker. It involves many competing considerations. I would like to thank the commission for its detailed discussion of the relevant issues. The report contains many sound recommendations for reform. Certainly, a number of things jump out. Speaking for this side of the house, the Liberal Party, there are a number of things there which we would be very keen to progress. Given the timing of the report, it will be up to any incoming government, be it us or the other lot, to formally respond to it. In the meantime, Mr Speaker, I have much pleasure in commending this report to the Assembly.

Public Housing—Select Committee
Additional government response

MR MOORE (Minister for Health, Housing and Community Services) (4.10): Mr Speaker, for the information of members, I present the following paper:

> The Role of Public Housing in the ACT—Select Committee—Report *(presented 9 May 2000)*—Additional Government response, dated August 2001.

I move:

> That the Assembly takes note of the paper.

In July 1999 this Assembly established a select committee with wide-ranging terms of reference. The committee completed its report, making 14 recommendations, in March 2000. The report was tabled in this Assembly on 9 May 2000.

The government tabled its response to the committee's report on 5 December 2000. On 7 December 2000 the Assembly, after considerable debate, passed the following resolution:

> That the Assembly, having considered the Government's response to the Report of the Select Committee on the Role of Public Housing, requires the Government to prepare a revised response to recommendations 1, 2, 3, 7 and 9, and to respond to paragraph 3.104.

These recommendations relate to security of tenure for public and community housing tenants, segmentation of the applicant list, the rental bonds loans scheme, and the establishment of an emergency relief fund. Paragraph 3.104 relates to the withdrawal of rent rebates after absences by tenants of more than three months.

Mr Speaker, the government has now reviewed our earlier responses and has provided additional responses addressing the Assembly's resolution. I want to reiterate to the Assembly that the government continues to be committed to the reforms that have now been introduced.

As I indicated when tabling the government's initial response to the select committee report, public housing assistance is currently provided in an environment of constraints and pressures that all states and territories are facing. There is an increasing need to better target our limited resources to those people in the community who are in the greatest need. That is fundamentally what these housing assistance reforms are all about.

The government will not resile from our obligations to use resources sustainably and to meet the needs of the disadvantaged in our community. Indeed, the government has proceeded with action to implement the housing assistance reforms with effect from 1 January 2001, with a disallowable instrument amending the public rental housing assistance program in relation to the reforms having recently been tabled in the Assembly for the consideration of members.

Having said this, when advised of the potential of financial hardship for some families arising out of reforms in relation to increases in rent paid by residents, I immediately moved to ensure that families with residents under 18 would not be adversely affected. In addition, the government is mindful of the need to continue to review and monitor the changes.

In reviewing its response to the recommendations in question, the government has decided to refer to the Housing Advisory Committee, in addition to our other reforms, two additional matters. These are the operation and performance of the emergency relief fund that is to be established and administered by a community organisation, and the impact on tenants of ceasing rent rebates when a tenant has been absent from the property for more than three months.

Mr Speaker, I believe that the government has now responded appropriately to this Assembly's resolution of 7 December 2000 and has adopted a reasonable position in relation to each of the issues. We will monitor and review these reforms, and we will provide opportunities for the community to provide feedback on these changes.

I trust our Assembly members will work with the government to ensure that housing assistance is targeted, sustainable and flexible enough to meet the changing needs of our community.

Question resolved in the affirmative.

Papers

Mr Moore presented the following papers:

> The Canberra Hospital and Calvary Hospital—Patient Activity Data—June 2001.
> Health Regulation (Maternal Health Information) Act 1998—June 2001 Quarterly Report.
>
> **Subordinate legislation (including explanatory statements, unless otherwise stated) and commencement provisions**
>
> Subordinate Laws Act, pursuant to section 6—

Duties Act 1999—Exemption guidelines for corporate reconstructions—Instrument No 246 of 2001 (S61, 23 August 2001)
Duties Act 1999—Exemption guidelines for certain voluntary transfers made under the *Financial Sector (Transfers of Business) Act 1999* (Cwlth)— Instrument No 247 of 2001 (S61, 23 August 2001)
Duties Act 1999—Determination for liability for payment of duty by Territory authorities or agents of the *Duties Act 1999*—Exemption guidelines for corporate reconstructions—Instrument No 246 of 2001 (S61, 23 August 2001)
Taxation Administration Act 1999—Determination of rates of duty for the purposes of the *Duties Act 1999*—Instrument No 245 of 2001 (S61, 23 August 2001)
Utilities Act 2000—Utility Networks (Public Safety) Regulations 2001—Instrument No 28 of 2001 (No 34, 23 August 2001)

Good government in the ACT

Debate resumed.

MR KAINE (4.15): This is a subject that I do not want to spend a lot of time on. I find it rather curious that on the last sitting day in the life of an Assembly we have such a motion put before us. I have to ask what its purpose is. It does not place an obligation on any future government. It does not identify any deficiencies in government. So I wonder whether it serves any other purpose than for one or two people to make themselves feel warm and cosy by giving us a lecture on what good government is, in their perception.

If we are going to affirm a commitment to good government, it might have been better to define what good government is. Whose perception of good government do we take on board as the benchmark? Government does not depend only on what happens in this place. It is basic politics. There are three elements of government: the legislature, the executive and the administration. We are only one part of that.

I am not too sure, in retrospect, that over the last 3½ years in the life of this Fourth Assembly even this place has produced good government. Some of the debate here has been mediocre. Some of it, in my view, has been self-serving on the part of people who introduced it. We have probably passed far more law than we ought to be passing, when you bear in mind that every time we pass a piece of legislation its net effect is to constrain what people can do—not broaden what people can do, but make life more difficult.

When you come into the Assembly on the last sitting day, you see an agenda for government business like the one we have before us—on which all items are urgent and have to be done before we close for business tonight—and you look at the substance in those bills, you wonder what contribution these things are making to the quality of life of the people in Canberra to whom we're responsible.

That said, I suppose by and large this Assembly has done what it was elected to do and what it was paid to do. But I think it is in the areas of the administration and the executive that one might question just how far we have gone with any commitment to good government.

When you have a government that does not seem to understand the concept of the separation of powers, when you have a government in which ministers think that they run the administration and that senior public servants do not run the administration, when you have ministers whose staffers, not even public servants, take executive roles, issue directives and directly oversight what is happening at the bottom end of the command structure in the public service—I cite, for instance, the tragic hospital implosion—and when we have ministers who think that they run the legislature and put forward proposals that would create executive committees consisting of elected members of this place, committees not responsible to this place but to a minister, you have to ask: does that executive have even the faintest notion of what the separation of powers means? That is probably where the greatest failure has been over the last 3½ years in the life of this place.

We are being constantly told by ministers that the public service is a wonderful service that does its job well and that public servants are professionals. By and large, I agree with that. That means, though, that if there are failures in government it comes back to the executive.

As I have just outlined, there are many ways in which this executive has displayed that it does not have much concept of what its role and responsibility are. Of course, the other part of its performance has that, when things went bad, all those great public servants suddenly became responsible for it all. They are great public servants one day, but when money is unlawfully spent, or when money is unlawfully borrowed, public servants have failed in their duty. That, to me, is the ultimate failure of an executive—when public servants do as they directed to do, presumably by the executive, and then when it goes wrong the executive blames the public servants for the failure.

As I said, if this debate had begun with some definition or benchmark of what good government was, this good government that we are supposed to be committed to, then there might have been some merit in this debate. But I do not see that it is a very productive debate at all. After Mr Moore closes the debate and goes on his merry way, we have to ask just what this debate contributed. My suspicion is that the answer is nothing.

MR QUINLAN (4.21): I was not intending to speak in this debate, but I feel that I would like to, given some of the things that have been said earlier. I want to address some of the things Mr Moore said. I appreciate his motivation for making his speech today. He talked about perverse results and conspiracy theories as if the structure of parliament were the root cause. That has to be seen as somewhat naive.

I have had a fair bit of experience with boards of management, community groups and clubs, big and small. It is quite clear that in those processes it is part of the human condition for people of like mind to coalesce on an issue and for there to be divisions between groups. It is part of the human condition that there are egos. It is part of the human condition that there is occasionally the need for power, and therefore power struggles ensue.

It is idealising the parliament to say that if we did things a little differently all things would be different. That is largely nonsense. If we compiled statistics, we would probably see that the great proportion of legislation in this place gets bipartisan support.

Most of the committees provide decent and useable results, usually on a consensus basis. Of course there are some politics at the fringe. Nevertheless, I think we are getting to the stage where to try to damn this process is just madness.

I would hate to see the fact that Canberra has a parliament of the Westminster standard undermined, whether it is for political purpose, to gain votes, to curry favour or to cash in on resentment that self-government was imposed. I have been around this town long enough to remember when we had one parliamentary representative at the federal level who was allowed to vote only on matters that affected the ACT. There was resentment then, because we were second-class citizens.

Are we going to denigrate this place to the point where we want to change its shape, I think for political reasons, so that we are lesser citizens represented by a lesser body than, say, the Northern Territory, which has fewer people but a parliament with 25 representatives, or Tasmania, which is not much different in magnitude from the ACT and has a far greater array of political representation than we have? Do we want to take this place backwards by knocking it?

I think we should be proud of the fact that we have a parliament. We have ministers here who are members of ministerial councils, and they can walk into those councils as ministers. What are we going to have in the future—ministerial and aldermanic councils attended by minister, minister, minister and Alderman Rugendyke? We would turn ourselves into something of a joke.

To decry the Westminster system or to decry the process of constructive debate and constructive tension between parties is to throw the baby out with the bath water. No, it not perfect by a long way, but if you have a government, an opposition and a crossbench and you have an element of competition, public debate teases out all the nuances of a particular issue. You do not get a ready rush to consensus, with people saying, "I am more interested in consensus than you are."

Adults can form a parliament where there is tension, debate and competitiveness. The product of that can be far more constructive than the love-in type of approach that was marginally inherent in what Mr Moore said and far more so in what Mrs Burke said to follow it up.

Mr Moore said that if we changed our system or changed our ways, people might have more respect for us. From what I know of the community—I get out amongst the community every now and then—some of the members of this Assembly are respected in the community and some are not. It does not have a great deal to do with which party you are attached to. It has a lot to do with the image they project and the standards and the principles they stand by and are known for. Many of the members here are respected by many of the public. No-one is respected by all, and some of us, obviously, are respected less than others. But I do not think it has anything to do with the structure of the parliament. It has a lot to do with the people we really are.

On oppositional politics, I want to read a paragraph from my inaugural speech in this place:

> Mr Speaker, much has been said in and of this place with regard to adversarial politics. I have to observe that at times the piety and breastbeating associated with condemnation of an adversarial approach has been quite obviously contrived. As we contemplate our role here, we have been encouraged by the recognition of the legitimate functions of an opposition in the recently published Pettit report. This should go part of the way towards the general acceptance that adversarial politics is a necessary part of the process of government under the Westminster system. I would like to make the point that I view adversarial politics as extending beyond adopting a negative approach to proposals and initiatives. It is wider than the opposition gainsaying the government; it can also be engendered through ostentatious and consistent self-congratulation by government or by selected and exaggerated claims of government achievement—claims that simply scream out for a response that must be of a negative dimension. It can also be engendered by the introduction of controversial items designed more to confer notoriety on the proposal than to give the ACT good law.

I still stand by that paragraph I delivered when I first rose to my feet in this place.

I have to respond to what Mrs Burke said. It was as if she was apart from this place. I have here in front of me a dissenting report claimed to have been authored by Mrs Burke and Mr Hird in relation to the last estimates committee. It ascribes all sorts of malicious motives to self. It was part of political gain. I think it was tabled by the Chief Minister, because the house had the good sense previously not to allow it to be tabled after the report of the committee was tabled. The people who put this in did not contribute to the committee in the way that is implied, but that is a separate question.

What I am saying is that the people who signed this are part of the process. Instead of just saying "ostentatious and self-congratulation" in my inaugural speech, I should have also added, if only I had known, "excessive positive self-attribution of virtue". I think all of those things require the witnesses or the people in the room to turn around and say, "You've got to be kidding!"

I will close. I was going to sling a couple more, but I will not. I can recall a couple of weeks ago a trumped-up censure motion being aimed at me. Mrs Burke was also part of that. For her to stand up here with the piety she did before lunch beggars belief.

MS TUCKER (4.31): I think this is an interesting discussion. I have thought a lot about adversarial government and cooperation. It is useful that Mr Quinlan pointed out that a lot of work here is cooperative. I have heard Mr Moore say that on many public occasions. The impression that reaches the community is often not that we are working together at all. Conflict is more interesting, because it surround issues important to the community, not that the issues we work on together are not important. Everything we do in this place is important. When there is a difference of opinion on an issue, it is news and it is interesting to the community.

In defence of the media, if media owners made a commitment to allowing greater and deeper coverage of what goes on here, that would occur. I am not of the view that the community would not want it and would not be interested. It is about how information is presented. My feeling from my work here and in the community is that people are interested in the issues and they are interested in understanding what is going on. But we all work with what we have to work with, including the media. That is the reality.

I agree with what Mr Quinlan said about the dignity of this place and cynicism in the community. A lot of that is to do with the personal qualities that people bring to their work. It is quite often about personal capacity to practise restraint. It is a very tense environment on occasions in this place. I do not claim to be perfect. I interject sometimes, and I understand the frustration that people feel, as we all do. But the capacity to practise restraint is very important and needs to be cultivated by people in this place. We are in a very unnatural and stressful environment, particularly in the sitting periods. It is reasonable to acknowledge that. We work in a difficult situation and need to find personal skills to deal with it.

Respect is also extremely important. We are all here representing different constituencies in the community. While we work together and have common goals and objectives, we have different understandings of how to achieve those objectives. It is important to respect that in each other and in the different parties. When I speak to school students who visit the Assembly, I always stress that point.

I have been asked to sponsor or facilitate debates on occasions. I find university debates quite disturbing, because they tend to proceed on the basis that you win a debate by discrediting the opposition in as cruel and nasty a way as is possible. I have always found that a pity. I do not know why that happens. If that is what debating is thought to be in schools and universities, then no wonder we end up with what we end up with here on occasion.

I think this is a good discussion. This is going to be a really long day. In the interest of the dignity of this place and harm minimisation, I suggest that members refrain from having a drink with dinner tonight.

MR STANHOPE (Leader of the Opposition) (4.36): I know there is a lot of business and that we are under some time pressure, but this is an important debate. I think it is important that we discuss these sorts of issues. I am always interested in discussions around governance or the way this Assembly operates. I am aware, even as recently as today, of the Chief Minister's continuing interest in issues of governance and appropriate forms of governance for the ACT. To some extent, the motion moved by Mr Moore today goes to the same issues around how this place performs, issues of governance and some of the implications of the form of government we currently have.

Mr Moore spoke of oppositionism and the adversarial structures we have developed here. That is a useful topic of discussion, though the contribution from Mr Moore in leading the debate did not go to issues around the style or nature of the institution we have here in the ACT. I had thought that that was a debate or issue that had been put to bed with the Pettit report, a significant report commissioned by the Liberal government which commented, quite appropriately, that the Assembly was developing well. It acknowledged that there had been some pressures and tensions over the previous 10 years, but that it was an Assembly or parliament that we had no need to continue to review of be apologetic about. There was no suggestion that it was not responding appropriately to the needs of the people of Canberra.

In the conference that was held to celebrate 10 years of self-government in the ACT, there were a number of significant contributions, one of them by the now Chief Minister. The Chief Minister gave credence to the suggestion that we were continuing to develop a viable and quite vital democracy here, and that with the effluxion of time we would develop an evolutionary edge over other Australian democratic systems as our current system of government continued to develop. Perhaps the Chief Minister was correct in that assessment. I hope it remains his view. I am not quite sure how that endorsement of the system we currently have fits with his recent pre-election push for a council-style government.

I am always willing to engage in a debate around forms of government—the Westminster hybrid we have, the extent to which we have elements of both the Westminster and the US system, how we have melded those and how we continue to develop. These are issues that we should continue to discuss, and we should continue to debate the evolution of this place.

I note that Professor Pettit, in his report, made some play about the need for us, having regard to our hybrid system, to develop a range of appropriate conventions in relation to, for instance, the budget process. I think experience in this place tells us that that is a job that is overdue. It is an issue I have raised previously. There is real confusion within this place around the extent to which the conventions are concrete or what the conventions are.

I do not think any of us, if asked, could point to the range of conventions which have evolved or developed in this place and which we all agree are the conventions of this place. That concerns me. Among the 17 of us there should be some unanimity around what the rules or conventions are that we agree, in a formal sense, apply in this place. That is just one issue.

Another issue was raised by the Auditor-General in his report No 14, following the Bruce Stadium issue, in relation to what the understanding in this Assembly is around ministerial responsibility? This is an issue that has generated significant debate over the last three years and significant heat and acrimony. It goes to the issue of what we as an Assembly regard as benchmarks in relation to ministerial or executive responsibilities. The Auditor-General, in that report, recommended that this Assembly needed to address that issue. He found from his investigations that there was no semblance of agreement or understanding on what this Assembly regards as levels of appropriate ministerial responsibility.

I come to the issue that was the focus of Mr Moore's contribution to the debate today. It was an address about the personal relations that apply in this place as much as a discussion about the adversarial nature of the Westminster system or a hybrid Westminster system. I took Mr Moore's contribution to be more than just saying that the adversarial system is not working particularly well or has basic flaws and that we need to address the basic nature of the system. I took Mr Moore to be saying that we do not do it particularly well. I concede that.

There have been occasions over the last three years that each of us regrets. I am sure there have been occasions when each of us has regretted that we perhaps failed a personal standard that we may have set for ourselves. I have sought to address some of these in comments I have made about the way this place operates.

My further contribution to the debate will be about matters which need to be fleshed out—how this institution operates, the constraints we have applied to ourselves, the physical nature of the building, the extent to which we project ourselves to the community as an institution that believes in itself and believes that it has a right to be proud about its achievements and the extent to which we provide a rigorous form of governance to the territory. That is not to say that I am in any way commending the government we have received. I distinguish between government and governance.

I do not think we need to decry the achievements of this Assembly to the point that we have reached now, 12 years after self-government. Our achievements are significant. We have a right to have some pride in the way the place operates and the governance that is being delivered. But I think there are a lot of things wrong. As an Assembly, we are quite hard on ourselves. The Chief Minister, in his speech at the 10-year anniversary, made some mention of the extent to which there are certain constraints on the way in which members of this place operate. I think they are all issues that it is probably worth having a discussion about.

But there are issues, too, which go to the heart of what Mr Moore said. I might just read the contribution Professor Pettit made at the conference. This goes directly to what Mr Moore said. This is an issue I am more than happy to debate again. I will quote from two pages from Professor Pettit, because they go to the heart of what Mr Moore was talking about:

> With a democratic competitive system of government, the system itself is directed towards a goal that transcends the goals of the politicians who participate in the system. The system is designed to promote effective and accountable government, let us suppose, but even if politicians have an interest in those high-minded goals, their more immediate aim is always going to be their own electoral success.

He goes on:

> The ideal in politics, as in these other areas, is that while the politician may be moved by their own particular interest in electoral success, the fact that they all pursue this will mean that the goals of the political system—effective and accountable government—will be achieved as a side-effect. Take the vision of the *Federalist Papers*, a document written by Alexander Hamilton, John Jay and James Madison when in 1787 they wanted to persuade the electorate of New York of the benefits of the newly written US Constitution.

I will pass over some of it. He goes on to say:

> If the vision of the *Federalist Papers*—ultimately the vision of the democratic tradition—is correct, then we should expect to find in politics a hurly burly in which individuals incessantly challenge and contest, deride and accuse, one another. But we should not necessarily despair of this pattern, for it may well be that out of such chaos comes an assurance that the systemic goals of politics—say, effective and accountable government—will be achieved. Better the hurly burly of politics than

> the sepulchral quiet of the commissar's office. Under the democratic tradition and vision, politicians are there to represent particular points of view, and endorse particular causes, in the hope of securing sufficient electoral support. If the system works, then they will be motivated thereby to make the compromises required for effective government—otherwise they must lose out at the polls—and to make sure at the same time that their opponents are exposed to the sort of critique and debate that will ensure accountability.

(Extension of time granted.)

> But the system is not designed to work only so far as the politicians endorse effectiveness and accountability and tailor their behaviour towards those ends: only so far as the politicians are relatively saintly. It is designed to work so that even if the politicians remain completely obsessed with their own electoral success, still effectiveness and accountability will materialise as an unintended side-effect.
>
> But the fact that the political system is designed to work in this way—the fact that it generates effective and accountable government in the same side-effect way that markets generates competitive pricing and public sports generate entertainment—itself raises a problem. It means that the system is susceptible to a certain instability, so far as it puts the participating politicians in deeply adversarial relations with one another.

This is the point I was seeking to get to after that long discourse, so I beg your pardon, but I think it is important and it is food for thought for us. This is the point of what I was trying to say:

> In most familiar incarnations, however, democratic political systems have a solution to this problem. They ensure that there are regular occasions, many of them ceremonial in character, when the participants are forced out of their adversarial roles and celebrate the system from the outside, as a cooperative, functioning reality. This happens in many regimes with the opening of parliament, with the reception in parliament of visiting dignitaries, and on those occasions where all are required to pay deference to the flag.
>
> The last problem that I would like to signal in the ACT is the absence of routines and occasions whereby the politicians in our local hurly burly are ever brought together to see and celebrate the reality and success of the system as a whole. Of necessity politics gives rise to slights and resentments, grievances and grudges, and if a political system is to work in a smooth and stable manner—if politicians are not to become just rats in the ranks—then there must be room for a sort of ceremonial reconciliation when the players collectively acknowledge that together they are serving a fine and good end.

I see lots of the hurly-burly in ACT politics, but I see little or none of this sort of reconciliation and celebration.

I think Mr Moore was commenting on the level of hurly-burly in ACT politics. I acknowledge it. At times I think many of us have found the behaviour in this place unpleasant. I read into the *Hansard* these comments of Mr Pettit, because he makes some suggestions about what he sees from the outside as a potential resolution of the problem of the hurly-burly, particularly in a very small parliament where there are only 17 of us.

When the grudges, the slights and the slings and arrows hit or bite, the opportunity for us to reconcile is not there or, if it is there, is never taken.

I think this is a significant issue. It goes to the structure and nature of this building as well as our propensity to include each other in potential opportunities to celebrate the good that we do as a parliament. There is a whole range of issues around that. One is the extent to which, when there are visiting dignitaries in this place, governments in this place have found a role for our oppositions. I attended a reception in the federal parliament last week for a visiting Israeli delegation. The Leader of the Opposition in the federal parliament, on the occasion of any visit by any federal delegation, is accorded almost similar standing and status as the Prime Minister. That is not the convention in this place. These are the sorts of issues that Professor Pettit, from the outside, points to as perhaps a way forward in terms of the issues that Mr Moore has raised today.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (4.50): Mr Moore has raised some interesting and important points and he has elicited some unusual responses in today's debate. I would only comment that perhaps the timing of this debate has been unfortunate. I think is the least convivial, least consensus-seeking mood one will ever find politicians in. Perhaps we need to revive the debate in another context. Nonetheless, the issues that have been raised are pertinent to our future and relevant to the way in which we operate as a community.

Some people would see the parliament as being at the apex of the ACT or any particular society. Having people who do various things in some sort of hierarchy, making decisions about where roads will go or what the laws will say, could be viewed as being at the pinnacle or the apex of the triangle, pyramid or hierarchy. There is not only the question of to what extent we assume responsibility and how that manifests itself in a process of making decisions that involve the people we are making decisions for but also the question of how much we set an example at that apex to people elsewhere in society lower down the pyramid.

I have to confess that on occasions I, too, like other speakers in this debate, have regretted the extent of adversarial disagreement that we have here and the extent to which we posture rather than put valid arguments in order to gain advantage. I think it is fair to say that at the end of the day, for the most part, it does not contribute very much to advancing our side in the debate but probably does ultimately detract from the standing of politicians across the board.

For that reason, I am not convinced that measures like the broadcasting of question time are designed to improve the standing of politicians in the community, given the way in which we tend to behave. I suspect that the broadcasting of question time or parts of question time from the House of Representatives has had a similar kind of impact. It probably has not helped the standing of federal members much, and I am not sure that broadcasting question time here would help us in this place either. But then again that is hypothetical. It might never happen.

Mr Stanhope quoted some comments from me at the 10th anniversary of self-government conference, where I talked about an evolution of self-government. He said I was endorsing the system of self-government. I would say that I endorse the system of self-government we have here, but I acknowledge that we need to move it on. We need

to keep changing to reflect what people want. I do not think we have yet met that position.

Today I attended the executive meeting of the Australian Local Government Association, representing the ACT. The members of that organisation, made up of the peak local government bodies from around Australia, were very pleased to have the ACT represented. It had been the only state or territory in Australia not represented on their board, even though they are here in the ACT.

I spoke about how we would like to be able to contribute to the ALGA's work but also learn more about how to make local government types of services work better in the ACT. I think it is very important that we try to do that. It is surprising where good ideas come from sometimes. Sometimes they come from most unexpected quarters.

Mr Quinlan: I have met Big Jack, the real estate agent from Woop Woop, the deputy mayor. I have been part of ALGA.

MR HUMPHRIES: I am in local government mode, Mr Quinlan, so I will not join you in having a go at local government. There is a need for us to rethink the way we do the things we do here. Mr Quinlan suggested that a lot of people were happy with what we do here. He referred to the reputations we have in the community.

Mr Quinlan: I said they are personal. They are individual.

MR HUMPHRIES: They are individual, yes. Obviously the job we do has some bearing on that. I do not get too many people coming up to me in the street and spitting on me, I have to confess. I am pleased about that. That may be a reflection of the fact that they are afraid to. I think people want to see government which is responsive. They like to see their members of parliament on the street, to talk to them and to have access to them. But I do not think any of those facts, even a friendliness towards members of parliament, disguises or covers up the fact that there is still significant disquiet about the nature of government in the ACT. No-one has ever bothered to put to an opinion poll in the ACT the question: "Are you happy with self-government? Would you undo self-government tomorrow if you could?"

Mr Quinlan: Yes.

MR HUMPHRIES: Mr Quinlan says yes. He might be right. If people are prepared to say yes, then there is a challenge for us.

Mr Quinlan: But if you said to people in a state, "Do you want to do away with the state government and give it all to the Feds?" they would all say yes.

MR HUMPHRIES: I do not agree with that. I very much doubt that. My feeling is that most people would defend their state and say their state is a great thing. People would say, "We have to have someone to stand up to those pointy heads in Canberra. We have to have a state government for Queensland. We have to have a state government for Tasmania. Tasmania matters." States and the state governments are important to many people. I am not sure we are viewed in quite the same way.

I contrast our position with that of self-government in the Northern Territory, which from my impression is a very popular institution, is one that people seem to wear on their sleeve or on their lapel.

Mr Quinlan: It has matured greatly in recent times.

MR HUMPHRIES: It might have matured greatly. We have not yet matured to that point. Perhaps we need to. I think we have a need for further evolution in our system of government. In the coming election we will be telling people how we think that evolution might occur.

I close by thanking Mr Moore for raising this debate. Mr Moore has made a continuous contribution during this Assembly in generating discussion that has sometimes resulted in change. Many of the things we have done here resulted from his initiative—for example, the Statutory Appointments Act and abolition of the prayer.

We need to have these debates. The lesson I get out of the comments that have been made today is that we have to accept the need to continue to review ourselves, to accept the need for change. No organisation is so good that it is going to have wild applause and wild support in the community, particularly not one like ours, unless we think continuously about how we are hitting the ground out in the community. I would hope that this debate can help us to do that a little bit better.

MR CORBELL (4.58): There are two elements that I would like to add to this debate. One goes to the capacity of the Assembly to do the work it has to do, and the other has to do with how good government is viewed by citizens of a city.

I deal first with the capacity of the Assembly to do its job. It has always struck me that in such a small chamber and such a small legislature, with a system such as the Hare-Clark electoral system, you will inevitably attract and see elected to this place those individuals who can vigorously stand out from the crowd.

It is a function of the Hare-Clark system that unless you are able to carve out your constituency and seek their endorsement and re-endorsement you are not elected to this place. That is a good thing in many respects, because it means you have representatives who are capable of articulating their point of view and communicating their message. But it also creates a weakness.

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

MR CORBELL: The weakness in the Hare-Clark system is that you often will not get elected to the Assembly those individuals who, with their experience, background or capacity, can make a contribution but who are unable to be as vigorous and as egotistical as you need to be to be elected through the Hare-Clark system. That is a weakness in this place. We do not always attract those who have had considerable experience in different professions and fields but who by their nature are not as vigorous as you need to be to be elected to the Assembly.

It has always struck me that a proportional system with multi-member electorates delivers safeguards such as the safeguard against the dominance of a one-party government, a majority government. It delivers safeguards in the representation of small constituencies and minority views in the community. But it does not allow for the election of members who, with their experience, can bring thoughtful consideration to issues outside of the hurly-burly.

For that reason I have often thought that there would be some benefit in allowing members to be elected not solely through a multi-member system but also through some sort of party list system similar to that in New Zealand and similar to the system currently being considered by the citizens of the new country of East Timor. Those systems feature directly elected representatives but also members elected through a list system.

A list system would provide for the election of individuals in society who, with their experience, have something to offer but who do not have perhaps the ego to want to go out and mix it on the ground as you are required to do under the straight Hare-Clark system. It strikes me that that would offer something to the Assembly which we do not always have enough of. That is my thought on providing perhaps a better level of good government for the territory.

The other aspect I want to comment on is the delivery of services and how people in Canberra perceive good government. Individuals are interested in good decision-making, in good policy-making and in good ideas that represent their aspirations and their hopes for the community and their neighbourhood.

But there is also the question which Mr Humphries touched on in a way I do not agree with. He touched on delivering effective local government services. In comparison to many other local government areas around Australia, I do not feel that we deliver local government services as well as we could. It is not through any lack of capacity by those we employ in the various government agencies to do that work. But we do not deliver them and as well as many other jurisdictions do.

I do not believe for a moment that how well we deliver local government services is a function of this legislature. That is where I think the Chief Minister is taking the wrong approach. It is a function of the administration of the government of the city, not a function of the process of this legislature. How effectively key local government departments or agencies are organised determines how well they deliver their services.

The Department of Urban Services is the key local government service delivery agency, although not the only one. I am constantly surprised that people in the community generally still find it difficult to know whom they go to for the delivery of a local government service. In a local council you do not have that situation. But here it seems that we still have that problem.

I think there is much to be said for focusing the delivery of municipal services in such a way that people understand where they come from, understand who is responsible for them and can identify services provided to them for the purposes of maintaining and enhancing the city. A focus on streamlining and better administration of the municipal service areas of the ACT government would help to achieve that.

I do not see it as a function of the legislature. I do not see how calling this place a council instead of the Legislative Assembly would in any way change the way local government services are delivered. It would not. With the greatest of respect, that is the flaw in the current government's approach.

To some extent this debate is a case of navel gazing, but reflection nevertheless and useful in focusing members minds in the lead-up to the next election on the prospect of a new administration after the election and the challenges this city will continue to face.

MR BERRY (5.07): Mr Moore's motion that this Assembly reaffirms a commitment to good government for the ACT could quite easily have been written to read, "That this Assembly reaffirms a commitment to better government." That is a process we have been going through since 1989.

Mr Moore spoke of the oppositionist position that politicians in this place take in relation to certain matters. He saw that as a negative. You nearly always sees it as a negative if you are in government doing all the positive things. Where you sit is where you stand. Your ideas are coming from the people with their hands on the levers, so they are the issues that we should try to gain agreement on.

Thank heavens, as far forward as I think I can see, there will always be somebody on the other side of the house saying, "I can give you a better government." That is the very nature of the Westminster system and the reason that we ought not to be too critical of the adversarial nature of politics.

Wise people say things in short sentences to you in the street. For example, they say, "It is far better to have you politicians in the parliament belting each other up metaphorically than it is for us people out in the street to be shooting each other. You can make the decisions in the Assembly democratically. If you take democracy away from us, the decision-making process will break down, and we will tear each other apart in the community." Adversarial politics, whilst it has to be well aimed and as gracious as it can be, is fundamental to the development of better government and better democracies.

There are limits to that. I think it was the Albanian president or prime minister who had the awful habit in his cabinet room of shooting ministers who disagreed with him. Thankfully, adversarial politics in this place is guided by a more genteel approach which we inherited from Great Britain. Despite all of their failings, the British have a well-developed image of how a gentleman and a lady should behave. They say that it should happen in the parliament, but it does not always happen. People are people. We have our emotions of regret, fear, sorrow and anger. Everybody has a little bit of mongrel in them, and it comes out from time to time. I do not think I have sat through a term in this place and not seen people exhibit a bit of mongrel when they are passionate about an issue. The passionate exchange of ideas is a fundamental of democracy.

What troubles me is when politicians complain about other politicians who are passionate about what they believe in and complain about the adversarial nature of politics to further themselves in the community rather than explaining better what the adversarial nature of politics is about. It also troubles me when the complaint about adversarial politics is used as a distraction from the issues.

Each time we have an election in the ACT we hear about council-style government, a different model of self-government or some sort of restructuring of our present system. Such propositions tend to draw on old concerns about self-government and to focus the community on something other than the decisions of government, the performance of government and the issues that should concern the community.

I think the framework for government in the ACT is developing well. It will be different in a few years, I expect. There will be more members, I expect. There may even be consideration of other electoral systems as time passes and there are more politicians in this place.

This is a very difficult electoral system to work in. I remember putting a nasty press release out, amongst the few I have put out about various people around this place. It was a biting press release about Dave Rugendyke.

Mr Rugendyke: Yesterday, wasn't it?

MR BERRY: No. I have done others. You missed the others. We were at a function at the airport, and I could see that Mr Rugendyke was not talking to me. Mr Rugendyke might remember this. I went over to him. He seemed a little bit stern. I tried to be as gracious as I could be in the tense situation that seemed to exist, and I said to Mr Rugendyke, "One of the problems with this sort of politics here is that we are both in the same electorate, and it is my job to see you out of work and your job to see me out of work. It is not a very comfortable position to be in if you have in mind the passionate pursuit of ideas."

I go back to what somebody said to me years ago when I was involved in the trade union movement and doing some study on advocacy. An experienced industrial commissioner was giving us a briefing on how to advocate various positions for our constituents, workers in the field. He said, "Your job is to represent your constituents. Leave everything else aside. Be very careful if you get to break bread and have a beer with the bosses' advocate too often, or you might forget where your responsibilities are. Your responsibilities are not to engage in a convivial atmosphere with the bosses' advocate. Your job is to represent your members. If you become too friendly with the bosses' advocate, you may forget your members just for an instant. If you do, you will have deserted them."

I think that is also a part of politics in this place. We are not here because we like what goes on here and we like belting each other up metaphorically on policy issues. We are here representing a group of people on issues and trying to improve their standards of living, their future and their security and dealing with those sorts of issues which give us a more socially just and fairer society. You cannot forget that for a moment, in my view. Whilst the anxious moments which develop in this place might distract you for a small amount of time, you should not allow them to distract you for too long. You should never forget your responsibility to represent those people whom you feel you represent. They may not all vote for you. The fundamental reason for you being here is to represent those people.

I have happily been an elected representative for more than half of my working life. It has always been interesting to watch the reaction of constituents to a passionate debate. It is not something that often happens when they are arguing their case, but when at a union meeting, in an industrial court or in parliament they see their advocate getting stuck into it, they say, "Geez, you get stuck into it in there." But when you say, "My job is to make sure that you get a better deal out of this, and that is what you pay me for," they develop a better understanding of what politicians are about. *(Extension of time granted.)*

The opportunity for better government in this place will present itself time after time. Government will improve. But I do not think we should be criticising one another about the passion with which we pursue issues and about the adversarial nature of politics. Nor should we criticise the model of this place too much either. If we do that, we forget the important issues which affect people. It is an argument that we can have day and night, but it will not achieve a simple thing like unblocking a blocked drain or any of the more complex things that go on in Mr Moore's hospitals. The issue always has to be what we produce for the community.

MR MOORE (Minister for Health, Housing and Community Services) (5.19), in reply: Mr Kaine said he did not understand the purpose of this debate and questioned why we were having it. Having listened to the debate, he might reflect on whether perhaps it is time for him to retire. Perhaps that is a bit cruel. Perhaps I have even slipped into the very thing I was speaking against. Mr Kaine is the very person who was on radio today making innuendos about corruption within the public service.

I saw my motion as an opportunity for members to reflect and for me to reflect. I am absolutely delighted with the debate. I think the purpose has been well served. It has given us an opportunity to say, "What are we doing? How are we doing it? Are we doing it well enough? Can we do it better?" With the exception of Mr Kaine, everybody has responded positively. The issues Mr Kaine raised were all about things that existed when he was a minister. The irony of that should not be missed.

I was trying to draw a distinction between exposing people's ideas and making sustained personal attacks on a person's credibility. I was saying we should take time out to reflect on that issue.

Mr Quinlan spoke about constructive tension. The same theme came through in other speeches. I agree wholeheartedly. That will occur. Conflict is part of politics.

Ms Tucker spoke about conflict and the media. The media play a significant role. If they expose the hypocrisy of a person advocating one thing but acting in a different way themselves, I do not have any disagreement. That is reasonable. Yes, conflict is more interesting, but not always. There are some very positive, interesting stories that come out of members working together and getting agreement on a range of things.

The media gave low-level coverage to the home detention legislation that came through this Assembly. They could have written an interesting piece. That legislation even had an element of conflict about whether we should have remand or not.

Mr Quinlan spoke about a local council style of government. I strongly believe that members do themselves an extraordinary disservice by talking about such a style of government. I think it is appalling. I abhor it. I have abhorred it from the time I first heard it. This parliament works as well as any parliament I know. That does not mean it cannot become better.

Mr Quinlan spoke about ACT ministers walking into ministerial conferences. When I walk into a ministerial conference, I consider myself amongst equals. My view came from thinking about Rhode Island, which with a population not much bigger than the ACT's, has the same position in the US as California, which has a population bigger than that of Australia. On that example, we are entitled to a position, we expect it, we take it and we deliver for the people of the ACT. We may even have an opportunity to make a contribution for the people of Australia as well.

I express my appreciation of the effort Mr Stanhope went to challenge some issues. He referred to the *Federalist Papers*. I have read the *Federalist Papers* to get a better understanding of how democracy works. I am sure other members who have read part or all of them as well. They raise issues that are still pertinent. That is what is so interesting and exciting about them. Written 300 years ago, they talk about the principles on which a democratic system should be based.

Mr Stanhope also touched on the Auditor-General. I take this opportunity to warn members that reports of the Auditor-General should be taken into account but not given lofty status as I see happening. It does not matter whether it is an inquiry by the Auditor-General, a committee of inquiry or a senior person. Responsibility lies here.

Mr Berry: You have to be careful. That is what Jeff Kennett said, too.

MR MOORE: Mr Berry mentions Jeff Kennett. I strongly disagree with the way Jeff Kennett dealt with the Auditor-General in Victoria. But auditors-general, ICACs and so on are not elected. They are not accountable to the people. We have to be very careful. We had legislation here proposing that the term of the Auditor-General be seven years. I do not think that such a person should effectively have power over elected representatives for more than one term, whether it be five years or seven years. The same applies to ICACs and so on. A problem arises when such appointed bodies consider themselves a power unto themselves. Members will need to be careful of that.

Mr Stanhope also spoke of ceremonial reconciliation. I am reminded of something I had forgotten about for some years. I remember hearing Professor Pettit's speech and thinking that it was something we needed to do, but then I did nothing about it. I regret doing nothing about it. We should put a challenge to the Speaker of the next Assembly. That is where such issues should be dealt with.

Something was done about it recently when Mr Quinlan and Mr Smyth travelled to China. Credit should go to both members and to the Labor Party and the Liberal Party. We can do much better. Whether Mr Stanhope or Mr Humphries is the next Chief Minister, Mr Stanhope has thrown down the gauntlet.

Mr Humphries also spoke about the local government model. I have made my view on that very clear. He also mentioned the Northern Territory government, perhaps in an interjection. Our government has worked far more effectively than the Northern Territory government. I think they could learn a huge amount and would seek to do so.

I need to correct Mr Humphries. Abolition of the prayer was not just my work. It was a joint effort with Mr Berry. Mr Berry might have moved the motion—I cannot recall.

Mr Berry: We are getting too old, Michael.

MR MOORE: Yes, we are getting too old. I would certainly recognise it as a joint effort. I do not think we abolished the prayer, I think we did something much better. We need to respect everybody's point of view by allowing people to pray or reflect. Previously we had what other parliaments have—a total lack of respect for people who have beliefs like mine.

Mr Corbell mentioned list systems. I do not disagree with Mr Berry's notion that there is always somebody on the other side proposing that they can do better. That tension is important. I would not want to be interpreted as disagreeing. The general conclusion is that—

Mr Humphries: You will burn in hell.

MR MOORE: Apart from burning in hell, the general conclusion is that our system is developing well. It will continue to develop. But debates of this type in which members reflect on what they are doing are incredibly important. I have been extraordinarily proud to be a member of this Assembly the whole time I have been here. I remain proud. I will always be proud that I served the people in an excellent Assembly.

Question resolved in the affirmative.

Defamation Bill 1999

Debate resumed from 28 August 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (5.29): Mr Speaker, it has long been recognised that the law relating to defamation needs reform. The difficulty for those seeking reform has been to decide what reform should take place and at what level of government should it be directed. Ideally, a national approach should be taken in this important area of law. The Commonwealth legislates to control various aspects of communications in the media and, of course, defamation laws are one part of that broad spectrum.

However, the former Attorney-General, Mr Humphries, recognised that a national approach would not be taken and introduced this bill almost two years ago on 9 December 1999. The bill adopts many of the recommendations set out in the 1995 ACT Community Law Reform Committee report No 10 on defamation. It does not attempt to codify the law relating to defamation but rather makes a number of substantial

changes to the existing law by: one, introducing a new defence based on the law of negligence; two, introducing an "offer of amends" scheme; and, three, setting out some principles to govern the award of damages.

The Standing Committee on Justice and Community Safety provided two reports on the bill. In the first report—No 1 of 2000—the standing committee, as the scrutiny of bills committee, discussed the competing rights to freedom of expression and the right to privacy, without reaching a conclusion that this bill favours one more than the other. The committee pointed out that the only way to break out of the circular argument about these rights is to make a judgment in a particular case.

In this report the committee tended to use "right to privacy" as equating to "right to protection from attacks on honour and reputation", when they are not necessarily the same thing. "Honour and reputation" are connected with how an individual is perceived by others, whereas "privacy" is concerned with matters that the individual may not want disclosed to anyone, even their most intimate acquaintances.

This distinction is important for two reasons. First, defamation is an attack on a person's "honour and reputation" rather than an attack on their privacy. Of course, a person's privacy may be attacked at the same time as "honour and reputation" but may not found an action in defamation. A person's privacy may have been invaded to gather the evidence for an attack on their public reputation.

Second, the defence of "truth alone" takes no account of any need to protect an individual's privacy. A "truth and public interest" test may not protect a public figure from adverse comments that may be defamatory but it would protect an ordinary citizen who takes no part in public life or whose activities are of no more than prurient interest. The report did not make any judgment about the merits of the bill.

The standing committee was later asked by the Assembly to consider and report on three aspects of the bill: one, whether the ACT should return to the common law defence of truth alone; two, whether the defence based on negligence should be adopted; and, three, whether under the "offer of amends" scheme, a plaintiff should be able to claim compensation for damage to reputation and business as well as expenses.

The committee was faced with very different viewpoints, particularly from the media and lawyers, on these issues, but finally recommended against points 1 and 2 and in favour of the third point. The committee made an additional recommendation that the government develop further proposals aimed at providing in-built incentives for the media to avoid damaging the reputation of people.

The government responded to that report by accepting some of the committee's recommendations wholly and accepting some in part. The government now proposes, in amendments that I understand it will be moving today: to re-establish a "public benefit" test along with the defence of truth; to amend the negligence defence to make it less complex and more akin to natural justice rules; and to permit the publisher to make an offer of compensation with the offer to make amends by publishing retractions or apologies.

As is normally the case with important legislation, I have carried out some consultation on the bill. The Labor Party has decided to support the bill, recognising that it is a start on making important reforms. The bill may have to be reviewed after we have had an opportunity to gauge its practical effects. The amendments proposed by the government seem sensible and to accord with the standing committee's recommendations.

I understand that it is the government's intention that the amendments provide at least some incentives for the media to avoid damage to reputations. This is done by the "natural justice" approach, requiring the media to give a person who is to be the subject of a story an opportunity to be heard. The media will not be able to publish stories without verifying them at the source.

The compensation offers are for any economic loss and/or harm to reputation if a publication imputes criminal behaviour by the aggrieved person. These alternatives give both parties an incentive to settle the matter quickly within realistic bounds. Given the uncertain outcome of litigation that takes on average more than three years to reach a conclusion, a prospective litigant may be satisfied with a published retraction and apology, supplemented by compensation and expenses. It remains to be seen whether these intentions are realised or whether reform will be quickly required.

I conclude, Mr Speaker, by again acknowledging that this is an area of law which governments around Australia have effectively squibbed since I do not know when. To that extent, I acknowledge that the government, in bringing forward this legislation, has at least an intention to be proactive—to intervene in an area of law that governments have found to be not important enough or simply too difficult; or an area that governments have not been prepared to bite the bullet on.

I am conscious that the government's bill went some significant way further than will be the case as a result of the amendments that have been negotiated. I might signal now that I have some mixed views about the extent to which we should continue to pursue defamation law reform. It is an area of law that I also accept as being grievously outdated and outmoded. I think we in the ACT have suffered more than other jurisdictions as a result of that, particularly to the extent that plaintiffs have chosen to use our court system as the venue for pursuing actions in defamation, with effectively a significant cost to ACT ratepayers in that our courts have been tied up in dealing with matters that really are not particularly the responsibility of the people of the ACT.

I am also mindful, in our support for these amendments, of the fact that the law of defamation as it currently applies is one of those laws that are really only relevant to people who are extremely rich. Defamation law in Australia is accessed only by people with significant wealth or with access to wealth. This is one of the great absurdities and issues that point most strongly and significantly to the need for some real reform in relation to defamation.

There are also, of course—and perhaps this is something that is more philosophical than real—continuing issues around our devotion or dedication to freedom of speech. Reform in the area of defamation law is very relevant to issues around the extent to which we embrace the notion of the right of freedom of expression and freedom of speech. This is something, of course, which is a particular fondness of leading proprietors of newspapers and those that perhaps are on the other end of defamation actions. Nevertheless, it is part

of the debate that should be taken into account in any consideration of the reform of the defamation law.

I might say that in a previous incarnation as chief of staff to a federal Attorney-General, I attended as an adviser a significant number SCAG meetings over a number of years. I think defamation law reform was on the agenda for every single meeting, and it never went anywhere.

I want to be measured and guarded in my comments but I commend the then ACT Attorney for bringing this matter forward. I do not want to be overly—

Mr Hird: Don't overdo it, Jon.

MR STANHOPE: I am making these remarks in the spirit of the last motion. This is an area of law that was desperately in need of some attention, and I think it is good that the ACT is taking a national lead.

I signal that the Labor Party will be opposing Mr Osborne's amendment that seeks to put off the introduction of this legislation for a year. I do not see why we need to do that. But I do accept the other amendment from Mr Osborne, that this is an area of law that should be reviewed. I think it will need to be reviewed. I think there is potential for us here at some stage in the future to take the additional steps that may be required.

MR MOORE (Minister for Health, Housing and Community Services) (5.39): Mr Speaker, I will speak briefly in support of this legislation. I would like to issue a warning. I notice that Mr Stanhope indicated that he will support the legislation but with some reservations. I have significant philosophical reservations. I am concerned about the transfer of power through this sort of legislation from the parliament and towards the media when defamation law is relaxed. We have seen this happen in other places.

I think it is worth remembering and reminding members who are sitting here that they are elected by the people. The media may see themselves as an important part of democracy, a fundamental part of democracy, but the people who represent the media are not elected. Sometimes there is a need for some checks and balances on the media. The courts can be used for this purpose and it is important that they ensure that the media is responsible in its use of free speech.

It is appropriate that Mr Humphries has taken this sensible step to deal with a very messy law. He has taken a major step forward by his government being the first government in Australia to approach the problem in the way outlined in the bill. This legislation will need to be reviewed and developed in the process, as is the case with most our laws. We recognise that they need to be reviewed fairly regularly.

This is the first attempt to codify defamation law in a more effective way, and I think that is very important. The Chief Minister, who originally introduced the legislation, and the Attorney-General, who is now responsible for its carriage through the Assembly, need to be congratulated. This is an appropriate step forward, but take care with defamation law.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Speaker, as I spoke on this bill over two years ago and I want to refresh my comments, I seek leave to speak again.

Leave granted.

MR HUMPHRIES: Thank you. I will not take long. As other members have said in this debate, reform of defamation law is one of the great legislative black holes, not just in this territory but around Australia. The issue has been grappled with by every Australian government, but I think few would concede, at least publicly, that they have made great progress.

The fact is that defamation reform is an area which is completely inappropriate to the needs of the vast majority of people in our community. Defamation law at the present time is highly elitist. Effectively, only the prominent and the wealthy have any prospect of pursuing defamation remedies to protect their reputations. Of course, every one of us, important and unimportant alike, has a reputation to protect. However, as I said, this is not a remedy that is available to people who are not prominent and wealthy.

I said at the time we introduced this legislation that we should measure this need for reform in a particular way. I said:

> If we rank the rights we enjoy in civil society according to our capacity to enforce them, then our right to assert our good name versus our right, say, to claim misappropriated property, to be granted a divorce or to have access to personal information would rank so low as to be almost non-existent.

There are so many barriers that protecting a reputation is effectively a privilege in today's society. The process of doing so is costly, complicated and almost never capable of quick resolution unless one side effectively rolls over altogether. It is based on a concept of law which is, frankly, archaic.

Mr Stanhope mentioned that the pressure on governments to reform defamation law has been quite intense and, in fact, has been a longstanding issue on agendas of the Standing Committee of Attorneys-General. He is quite right. I must confess to having been surprised to hear Mr Kaine's comments the other day, when he suggested that the appropriate response to this area was to refer the matter to a national body such as the Standing Committee of Attorneys-General. I am surprised he said that because the issue has effectively been on the agenda of the Standing Committee of Attorneys-General for something like literally 20 years. It has been debated endlessly at that forum and other forums and, as far as I can determine, there has not been any progress in that setting.

It is a little bit like *Days of Our Lives*—when you tune in after missing it for a few months you find that the story has not much advanced from the previous instalment. And so it is with the saga of defamation reform at the Standing Committee of Attorneys-General. So I think we need to confront this issue in this place and take the step today of reform.

I have to confess that the original vision of reform of defamation law will not be fully realised by this bill. Many compromises have been made but I believe that what we have before us is a very important first step. The most significant step, I think, is the process for the offer of amends. In this chamber we tend to say things about each other all the time and, indeed, but for the way the law is framed, we would defame each other every day. We do not, of course, sue to remedy a problem when we "defame" each other. What we do is fix the problem through debate or correction, or sometimes through apology. The immediacy of the response to the problem, though, is a very important ingredient in dealing with the issue. A matter is dealt with one way or the other within, at most, only 24 or 48 hours of it being raised.

Mr Speaker, the problem with the defamation trail is that in this country, and indeed other parts of the world, the trail is almost always stale by the time it reaches a court. The comments made are long past. Everybody concerned has forgotten what was said, except those lawyers whose task it is to keep the comments alive in the various writs and affidavits that fly backwards and forwards at great expense between the parties. People have to somehow valiantly try to revive the sense of indignation that they felt when the original defamatory comments were made of them.

It is a very artificial process and it needs to be given a remedy which is immediate. The incentive needs to exist to get people to address those issues quickly. I believe that if the defendant makes an offer of amends immediately, it is likely that a situation will be produced where the defamation can be addressed and acted upon when it is real, when it is alive. Of significance to this debate is the personal satisfaction that ought to come from that process.

The legislation provides that a person who makes a defamatory comment may care to make an offer of amends. That offer is a defence where the assertion or defamation was non-criminal in nature. This legislation introduces this very important step.

I will not say anything else, except to comment that this is a very exciting day. I flagged the need for defamation law reform when I first entered this place more than 12 years ago. Although reform has been a long time coming, it is very satisfying to reach the stage where it has actually happened.

MR STEFANIAK (Minister for Education and Attorney-General) (5.47), in reply: I thank members for their comments. I agree with Mr Stanhope and Mr Humphries that this legislation has taken a long time to consider. It has been like *Days of Our Lives*—Mr Humphries spoke about tuning in again after a few months; I tuned in once after eight years and I found that I had not lost much of the story.

I can recall chairing the legal committee back in about 1991 when we engaged in a defamation reform exercise—I am sure the report was duly filed—and I seem to see some of what we recommended being picked up now a decade later. But it has certainly been a long time coming. I commend the former Attorney and now Chief Minister for his interest in this legislation and getting it up and running to this stage. I thank members today for their support. I think it is timely, and it is a very important reform of the law in the ACT.

Far too much emphasis in defamation law has been placed on monetary damages rather than timely correction. Of course, by the time the damages were awarded, no-one remembered what the defamatory remarks actually were. This bill addresses many of those problems.

In summing up, I would like to highlight three main areas, and those areas basically relate to the behaviour of the media. The media is subject to very few effective constraints. Often the fact that the media has the money deters a little person from taking them on. Critics of the media have identified the lack of drivers in the present law that might influence or change media behaviour in three critical areas. Firstly, there are few incentives that improve the quality of reporting and reward accurate reporting or punish poor reporting. This bill will protect innocent publishers and punish negligent ones. The bill draws a distinction between the two and establishes an important financial reason for publishers to adopt effective systems and employ people of integrity to minimise the risk of defamation. The bill will provide incentives for the media to adopt a practice of giving people who are affected adversely reasonable time to consider the matter and respond.

Secondly, there are not any current incentives for the media to correct poor or inaccurate reporting in the time context in which it actually occurs. This bill introduces and provides incentives to the media to use the formal amends process. This process, which is set out in the bill, will ensure that amends are quickly made, not just for the rich and powerful but across all areas impacted by the media.

Thirdly, there is currently no mechanism in the present law to clear a person's reputation other than to wait for the case to come up, often years later. The bill provides an incentive to provide prominent and timely corrections. It provides that if an offer to make amends is not made, or no reasonable offer of amends is made, an aggrieved person may apply for an order to vindicate his or her reputation.

It became clear when the bill was first introduced in 1999 that there were three matters in respect of which there was no consensus. The government referred these three matters to the Standing Committee on Justice and Community Safety. The government proposes to move amendments in light of discussions that have followed the report made by the committee. These amendments are contained within the 17 amendments that the government will be moving and I am delighted to hear Mr Stanhope say that he will accept all 17 of them.

More recently the government accepted the desirability of a number of other amendments proposed by Mr Osborne, and they will be moved by the government from a separate sheet of three amendments, one of which Mr Stanhope has indicated he will be opposing.

Mr Speaker, this bill certainly is a legal milestone. We have had a few good legal bills this year—the Bail Act amendments, the Crimes Act amendments and, of course, the bill setting up our own Court of Appeal. But this bill certainly ranks as a very major step and it is certainly one of the legal achievements of this Assembly.

I thank all members. I especially thank the former Attorney for his interest and commitment in this area. I think we have reached a good milestone today. I like the idea of the review that is proposed in the amendments. I think it is important that we have

a look at that. It is important that we continue to drive reform in this area. But this is a fantastic start. I commend the bill to the Assembly and I thank members for their comments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR STEFANIAK (Minister for Education and Attorney-General) (5.51): Mr Speaker, I move amendment No 1 on the second sheet circulated in my name *[see schedule 3 at page 3908]*.

Mr Speaker, while the bill has been available for some time, two factors lend weight to the delayed operation of the act. Firstly, there is a demonstrable need for the media to undertake preparation for the commencement of the offer of amends process and the negligence defence. This will require retraining of journalists and editorial staff. There has been very little movement in defamation law for a long time and this fundamental shift from what the media has been used to will take some time to prepare for. Secondly, a number of significant changes are proposed to these provisions.

It is proposed, therefore, that the act not commence until 1 July 2002 to allow the media and other publishers to undertake the necessary preparations. The amendment to include a fixed date will lend certainty to these preparations. This is one of the amendments suggested by Mr Osborne and, for the reasons I have outlined, we see the sense in accepting it. I commend the amendment to the Assembly.

MR STANHOPE (Leader of the Opposition) (5.52): Mr Speaker, as I indicated earlier, the Labor Party does not accept the force of the argument that the Attorney has just put. I think this is good legislation. However, the original bill was far more advanced than the bill which will now be passed. As everyone knows, the amendments make the provisions of the bill far less dramatic than they may have been.

Whilst this bill is a significant advance—and I do not want to understate this—in defamation law in the ACT and in Australia, I cannot accept an argument that Crispin Hull or Jack Waterford need 12 months to be trained in respect of the implications of the amendments. I just do not accept the force of the argument that we need to allow 12 months for journalists in the editorial room at the *Canberra Times*, or within other media outlets in the ACT, to be trained in the meaning and the implications of this piece of legislation.

This is good legislation and it has been accepted across the Assembly. I think perhaps the support for these changes might even be unanimous. I can see absolutely no justification for delaying the operation of this legislation by a year. This legislation should come into

force and effect next week, or within whatever time the process takes. There is absolutely no reason for delaying its implementation.

I am intrigued by the suggestion that here in the ACT—of course, the major impact of this legislation will in the ACT—implementation should be delayed. It is being suggested that the *Canberra Times*, the *Chronicle*, the *City News*, the *Valley View*, and the radio and TV stations, need 12 months to understand what they can and cannot say in accordance with the new legislative provisions for defamation—as if they are going to go out and start going berserk because they think they have now got carte blanche to make statements in relation to people's reputation and honour. I just do not accept that.

The legislation should be brought into effect now. Not a single good reason can be advanced for delaying the implementation of this piece of legislation. If you stand by this as good law, then stand by its implementation now.

Question put.

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

The Assembly voted—

Ayes, 9		Noes, 8	
Mrs Burke	Mr Rugendyke	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Smyth	Mr Corbell	Ms Tucker
Mr Hird	Mr Stefaniak	Mr Hargreaves	Mr Wood
Mr Humphries		Mr Moore	
Mr Kaine		Mr Quinlan	
Mr Osborne			

Question so resolved in the affirmative.

Amendment agreed to.

Clause 2, as amended, agreed to.

Sitting suspended from 6.00 to 7.30 pm.

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

MR STEFANIAK (Minister for Education and Attorney-General) (7.30): Mr Speaker, I ask for leave to move together amendments 1 to 7 and 9 to 17 circulated in my name and amendments 2 and 3 on the second sheet circulated in my name.

Leave granted.

MR STEFANIAK: I move the amendments 1 to 7 and 9 to 17 *[see schedule 2 at page 3904]* and amendments 2 and 3 *[see schedule 3 at page 3908]*.

I table the supplementary explanatory memorandum. Mr Speaker, I have five or six pages of speaking notes on these amendments. It would save a considerable amount of time if these notes were incorporated in *Hansard*. I therefore ask for leave to do so.

Leave granted.

The speaking notes read as follows:

It is proposed that the Act will not commence until 1 July 2002 to allow the media and other publishers to undertake the necessary preparations. The amendment of the Act to include a fixed date will lend certainty to these preparations.

Government Amendment 1 (Large amendment sheet)—Clause 4
This is a technical amendment that will delete a machinery provision in the Bill (dealing with notes in the Bill).

Government Amendment 2 (Large amendment sheet)—Clause 6
The Committee opposed the Government's proposal to provide a clear and real benefit to defendants using the amends option (rather than, as present, fighting claims to a stalemate). However, the Committee commended a counter proposal made by Mr Crispin Hull.

Mr Hull proposed that the provisions in the bill dealing with an offer of amends might differentiate between imputations asserting criminal conduct and lesser imputations.

This amendment gives effect to this proposal. In discussions with other members other improvements in the provision have been identified and adopted by this and subsequent amendments to clause 6 of the Act (which deals with an offer to make amends).

Notes:
Paragraph (g) is a mandatory requirement (an offer of amends must include an offer to pay expenses).

Paragraph (h) has no changes.

Paragraph (i) allows an offer of amends to include economic loss (ie, actual damage - not injury to feelings etc).

Paragraph (j) allows an offer of amends to include an offer to pay compensation for harm to the aggrieved person's reputation but only if the defamation imputes criminal behaviour.

Government Amendment 3 (Large amendment sheet)—Clause 6
The amendment modifies clause 6 to allow an offer to pay compensation to be expressed to be an offer to pay a specific amount or an amount decided by a court or through arbitration.

Government Amendment 4 (Large amendment sheet)—Clause 6
The amendment modifies clause 6 to restrict the period in which an offer to make amends is made. In effect, it restricts the period to 14 days after an aggrieved person tells the publisher that the matter in question is or may be defamatory.

Government Amendment 5 (Large amendment sheet)—Clause 7
This is a technical amendment to section 7 to clarify the operation of the provision. The amendment makes it clear that the Court must have regard to prominence and period of time in assessing reasonableness.

Government Amendment 6 (Large amendment sheet)—Clause 7
This is a technical amendment to section 7 to make it clear that a court may consider other matters in addition to the two matters particularly emphasised in clause 7 (1)). Note that the Court is obliged to consider the offer generally (ie, the matters in section 6) under section 10 (1) (c).

Government Amendment 7 (Large amendment sheet)—Clause 8
This amendment is consequential to amendment 3.

Government Amendment 8 (Large amendment sheet)—Clause 10
This amendment corrects an error in the Bill. The reference to "Supreme Court" should have been a reference, generally to "court" as defamation actions can take place in any of a number of ACT Courts.

Government Amendment 2 (Small amendment sheet)—Subclause 10 (2)
Subsection 10 (2) provides that if a reasonable offer to make amends is not accepted by an aggrieved person, the Court may order an aggrieved person to pay costs to the publisher on an indemnity basis. This provision was included in the Bill to emphasise the need for an aggrieved person to work towards the timely resolution of defamation issues.

Provision has been made to delete subsection 10 (2). The provision has been criticised as potentially penalising an aggrieved person twice (having been defamed, if an aggrieved person did not accept a reasonable offer of amends but took the matter to court, if the aggrieved person lost then s/he would also be exposed to the costs of the publisher). The Government has agreed to delete this subclause because of these concerns but notes that the deletion will not adversely impact on the offer of amends scheme.

Government Amendment 9 (Large amendment sheet)—Clause 11
In clause 11, given the nature of the order, it is appropriate that the order is made by the Supreme Court, rather than an inferior court. This amendment corrects a reference to "court" in subsection (2) of the provision.

Government Amendment 10 (Large amendment sheet)—Clause 16
In relation to the defence of truth, the Government has been persuaded to change its position. This amendment withdraws provisions designed to return the ACT to the common law position where truth alone is a defence.

It specifically restores the defence of truth and public benefit.

Government Amendment 11 (Large amendment sheet)—Clause 22
Restores the defence of apology and payment into court.

Government Amendment 12 (Large amendment sheet)—Clause 23
The Committee adopted a number of objections to the Government's Bill concerned about the technical complexity of section 23 dealing with a defence of negligence.

Nevertheless, the Committee's report indicated that a consensus has started to emerge which will lead to a simplification of the law, and yet allow us to achieve sound policy objectives. The Government Amendment gives effect to this consensus.

This amendment provides that, for the purposes of section 23 (1), published matter was not published negligently if:

- reasonable steps were taken to ensure the accuracy of the published matter; and
- a reasonable opportunity to comment on the published matter was given to the plaintiff.

This provision brings the defamation into line with the standards generally applicable to other torts (civil actions, such as civil claims for damages for injuries resulting from motor vehicle accidents) - where negligence is generally the prerequisite to liability. It prevents the innocent from being penalised under the strict liability regime that applies presently under the law of defamation (eg, newsagent or other others in the information distribution chain - internet service providers).

Under section 23, the media must make out the defence before it can apply. However, the provision will also provide a new impetus for publishers to adopt appropriate procedures for obtaining and analysing information designed to ensure the accuracy of a report. It specifically encourages publishers to seek the views of persons who might be aggrieved by a report. These beneficial changes in the way a publisher deals with information before publication (which may be observed in the western democracies that have adopted a negligence-based defence) will result in community-wide improvements in the quality of information being placed before the public.

A question was asked whether proposed section 23 would provide too great a defence to a media defendant in, for example, a situation where the media published an uncorroborated statement made in a statutory declaration, alleging criminal conduct, without seeking the views of the person accused of the criminal conduct in the statement.

Section 23 does not apply to such a situation. Simply repeating the content of a statutory declaration is not enough to satisfy the three tests in section 23.

Firstly, if the defamatory imputation arising from the statutory declaration alleges criminal wrongdoing, the defence in sub-section 23 (1) is not available. Section 23 only applies where the defamatory imputations are of non-criminal behaviour.

Secondly, if the media has not given an aggrieved person a reasonable opportunity to respond to the defamatory allegations in the statutory declaration, the defence in paragraph 23 (2) (b) is not available. The provision only applies where a reasonable opportunity is given. Seeking comment, without notice, in the course of an interview about another matter, would probably not constitute a reasonable opportunity where the nature of the allegation might call for reflection, recourse to records or other consideration.

Thirdly, if the media has not taken reasonable steps to ensure the accuracy of the published matter, the defence in paragraph 23 (2) (a) is not available. Note that, under section 13 of the proposed Act, "published matter" means "...in relation to an action against a defendant for the publication of matter that is or may be defamatory, means the matter so published". Accordingly:

- simply reporting the fact that a statutory declaration has been made (if the report makes a defamatory imputation) does not satisfy the test in paragraph 23 (2) (a)—the media has not taken reasonable steps to ensure the accuracy of the published matter;
- simply repeating the content of a statutory declaration does not satisfy the test in paragraph 23 (2) (a)—the media has not taken reasonable steps to ensure the accuracy of the published matter; and
- simply repeating the allegation together with the response of a person obtained under paragraph 23 (2) (b) (to allow the reader to make up their own minds) does not satisfy the test in paragraph 23 (1) (a)—again, the media has not taken reasonable steps to ensure the accuracy of the published matter.

Government Amendment 13 (Large amendment sheet)—Clause 26
As Government Amendment 8.

Government Amendment 14 (Large amendment sheet)—Division 4.3
Division 4.3, which dealt with the procedural rules for summary proceedings in criminal defamation, is unnecessary (these issues are dealt with by modern provisions of general application). Accordingly, this amendment deletes it.

Government Amendment 15 (Large amendment sheet)—Clause 44
As Government Amendment 8.

Government Amendment 3 (Small amendment sheet) - New clause 44A

Provision has been made for the review the operation of part 2 (Resolution of disputes without litigation) and section 23 (Defence-defendant not negligent) after these provisions have been operating for 2 years. The review must be placed in the Assembly within 6 months of the review commencing.

Government Amendment 16 (Large amendment sheet)—Clause 45
Technical, consequential on the passage of the *Legislation Act 2001*.

Government Amendment 17 (Large amendment sheet)—Dictionary
Inserts a definition of 'court' to make it clear that relevant applications can only be made to a court of competent jurisdiction.

Amendments agreed to.

Remainder of bill, as amended, agreed to.

Bill, as amended, agreed to.

Protection Orders Bill 2001

[Cognate bill:
Protection Orders (Consequential Amendments) Bill 2001]

Debate resumed from 23 August 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR SPEAKER: I remind members that in debating this order of the day they may also address their remarks to executive business, order of the day No 4, Protection Orders (Consequential Amendments) Bill 2001.

MS TUCKER (7.32): Mr Speaker, on our first consideration of this bill you will recall that I moved that the debate be adjourned, and I argued strongly, amongst a lot of heckling, for what really is a most basic point—that changes to the legal framework to protect people from domestic violence should only be done in close consultation with those involved with domestic violence and the women's legal sector. In the course of that speech the Attorney-General promised to consult. "We will talk to them," he said. And that was the point. It is appalling that it did not happen much earlier in the lengthy review process.

So I was relieved, a little, to hear that eventually there was a meeting between the department and the representatives of some of the domestic violence sector last Thursday. Then on Monday I received draft copies of the government's proposed amendments, based on that meeting. That is good, as far as it goes. But I have a little more to say today about the changes to the domestic violence legislative landscape. This bill is not only about domestic violence. We also have to answer questions about how this changes procedures for other forms of restraining order.

This bill was presented to us as an urgent response to problems in the law which had led to protection orders and restraining orders being overturned by the Supreme Court. Although there was no report to look at to see the rationale for the legal changes proposed, my office was supplied with links to the cases which had led to the changes, which we appreciated. However, on reading those cases, it is hard to see how the changes proposed address the need identified. As I said last week, the Magistrates Court has already addressed the criticisms, and most of the criticisms went directly to sloppy legal procedures, not to problems in the law.

I understand the argument that rewriting the law will make it easier to understand and will involve less flipping between acts. It will standardise terminology and make clear which parts are common to any judicial act to ensure protection, and which are particular to the particular types. Helpful examples are included as notes in this bill.

Notwithstanding this argument, however, in regard to domestic violence, strong arguments have been put forward in the past for retaining identifiable domestic violence prevention measures in a separate act. I understand that the model domestic laws continue this practice. In its report No 11, September 1996, the Community Law Reform Committee said on this point:

> Consistent with the current legislative scheme, the Committee believes that domestic violence should be distinguished politically and conceptually from other types of violence, and consequently a separate Domestic Violence Act should be maintained:
>
> - to highlight the problem of domestic violence within the community;
> - to enable civil legislation and court procedures to be tailored to the relevant group;
> - to facilitate certainty in the application of the criminal law, and specifically the enhanced arrest and bail powers in relation to domestic violence offences, as recommended by the Committee in Part 1 of this report, by maintaining the relationship between the parties as the distinguishing feature for the purpose of both the criminal law and civil proceedings under the Domestic Violence Act;
> - for statistical purposes.

The government's proposed amendments have slightly re-emphasised the importance of domestic violence in the act, but it's a far cry from a separate act. I would need to be convinced that this change is being made having full regard to the domestic violence arguments. The lack of consultation does not bode well. It may be that the clarity can be maintained even with two separate acts.

On non-domestic violence orders, this bill is not only making the law clearer. It seems that the process of obtaining what is proposed to be called a personal protection order has been made easier, and so is harder on the alleged offender. As the explanatory memorandum put it, where there was a stronger version, the stronger version held. That sounds a bit like whittling away at justice. We need to have a better look at these changes, whether or not they are technical and complex.

If we are looking at how protection orders work, and it is not urgent—we know that the court has already retrained, reissued orders that were called into doubt, and created a procedures manual—let us look at the other questions.

How well would people with a disability be served by the system if it were changed by this bill? Concerns were expressed to my office about the definition of legal disability in this bill, and questions were asked about who would decide that someone was a person under disability when the definition expressly leaves it open. The department explained that the assessment of whether someone is legally competent is a standard process. However, there are differences in the definitions in the Magistrates Court (Civil Jurisdictions) Act where "person under disability" means a person who has not yet attained full age or a person who is not of sound mind. In this bill "person with a legal disability" means a child or someone with a "mental disability". This in turn means someone who is not legally competent because of a mental or intellectual disability.

What is the effect of this difference, Mr Speaker? People within the disability sector have raised these questions about the definition and whether it would be discriminatory.

How well does the court use conflict resolution processes to assist people to resolve their disputes? It is important that restraining orders are not used for the resolution of disputes; that they are understood to be a means of protecting people from harm. But while a range of disputes are being brought to the courts, it would be very useful, it would build social capital, in fact, if the court would refer more of the appropriate cases to conflict resolution. Of course, I am not talking about referring domestic violence perpetrators to conflict resolution as a first step.

There is a section, 206F, allowing the courts to recommend attending counselling etc, but I understand it is not commonly used. In this bill, however, there is no mention of counselling or conflict resolution. That provision would be lost from this legislation. The regulation-making power seems to cover it, but how do we make it clear that it is important?

The new section on workplace protection orders aims to fix a problem with the current arrangement. Again, however, it is not clear that it will not create a new set of problems. Despite the clause saying that it does not create any new obligations for employers, would an employer be somehow liable if they did not take out a workplace protection order for an employee and then the employee was adversely affected?

I had concerns about the fate of someone banned, for instance, from the ACT Housing assistance office. People who are at their wit's end are sometimes verbally abusive. That is difficult to be around; however, it is part of the situation in service and welfare provision. So how sensitive would an employer be? Would the clause covering the requirement to consider hardship be enough?

In short, these are matters to be resolved. I can see that the law is easier to understand, and that is good, but there are serious questions about what is being done to domestic violence legislation. There is a lot to work through here, and we cannot have confidence that all the necessary matters have been weighed up. Let's take the time to get it right. Wait until next year and for the model domestic violence laws report. Resource the Domestic Violence Prevention Council. Do a substantive review of the processes.

Yesterday in this place the government that now is wanting to push this through was arguing that we could not possibly do Mr Rugendyke's fair trading legislation because of a national process. There is not a great deal of consistency here.

It is great that the government has done this last minute consultation. If there were not the numbers to see sense and do it right, that would be a stop-gap measure; but let's see if we can complete the work that has been started instead of rushing in and setting up problematic laws.

MR STANHOPE (Leader of the Opposition) (7.40): Mr Speaker, the Attorney-General introduced these bills on 15 June 2001. The scrutiny of bills committee, I think surprisingly, made no comment on the bills, particularly the Protection Orders Bill, which has two extremely wide regulation-making powers. I noted that in his presentation speech the Attorney said that the Protection Orders Bill is the end product of an extensive technical review of the current legislation.

Because this statement created an implication in my mind that there had been community consultation and a report highlighting deficiencies of the current legislation, I wrote to the Attorney on 3 July 2001 asking for a copy of the report, details of the person who conducted the review and details of any public consultation. The Attorney responded to me on 1 August 2001. On that date he replied that there was no report, that there had been no public consultation and that the review was an internal one conducted by his department. I think it is relevant for members to examine the Attorney's letter. In his letter he said:

> As you have noted, the Bill is the end product of a technical review of the current legislation rather than a substantive law reform exercise.

Mr Speaker, I noted no such thing. All these words belong to the Attorney. The slightest perusal of this bill would reveal it is not the result of "a substantive law reform exercise". Calling it "the end product of a technical review of the current legislation" does not improve things.

Most significantly, and in the context of the response the Attorney gave to me, it is relevant to note that the Attorney did not consult the community about this legislation. The only stakeholders consulted were the Magistrates Court, the DPP, the Victims of Crime Coordinator, the Legal Aid Office and the Community Advocate. We do not know what comments they made or what input they had into the drafting instructions.

I would be surprised, in terms of the stakeholders which the Attorney acknowledges he consulted, if they all supported the bill in this form. I really would be interested in knowing whether the Community Advocate supports this legislation in this form. I would be interested in knowing whether the Legal Aid Office supports this legislation. I would be interested in knowing what the Victims of Crime Coordinator said about this new arrangement for these issues. What is also interesting is the names that are missing from the list. There are no groups of people representing the specific interests of women, no domestic violence group, no victims group, and no members of the legal profession.

Most amazing of all, Mr Speaker, is that the statutory authority established to promote collaboration and advise the minister in relation to domestic violence was not listed by him as having been consulted. The Domestic Violence Prevention Council has been working with an inter-governmental working party and examining the law in this area. The group reported on what should be contained in the model bill in 1999. No jurisdiction has enacted a model bill as yet, and there is no evidence that this bill takes cognisance of that 1999 report.

The council has been doing further work on how the model bill could be adapted for local conditions and will report later this year. Their work has been delayed because the bill has cut across what they have been doing. Although the council was sent a copy of this bill it was not invited by the Attorney to comment on it because he keeps saying it is only a technical rewrite of the existing law. If that is so, why has the council not been recreated in this bill? Why did the attorney not transfer the provisions creating the council from the Domestic Violence Act to this bill?

The answer might be found in what the Women's Legal Centre had to say about the bill. They said that the statement that the bill is merely a technical rewrite "seems to gloss over the reality that the Supreme Court decisions have effectively necessitated a review, rather than a mere rewrite, of court practice and procedure". I repeat, Mr Speaker, "a review of court practice and procedure". The Women's Legal Centre went on to say:

> There are a number of reform initiatives taken in this Bill which represent a significant departure from the initial Government Response to ACT Community Law Reform Committee recommendations on civil issues in domestic violence passed in 1998.

Contrast that statement by the Women's Legal Centre with the Attorney's presentation speech and the letter to me in which he asserts that there has been no specific policy change. His letter says:

> The closest the Bill comes to a substantive policy change is in the new provisions dealing with the workplace.

Well, whom are we to believe here, Mr Speaker? The Attorney, who wants us to pass his bill, or the Women's Legal Centre, who will be required to work with this law every day?

There is no suggestion by the Women's Legal Centre that the law was in such disarray it needed review. The Supreme Court did not criticise the substantive or technical law. However, it did criticise Magistrates Court practice and procedures. In Barkovic's case, Mr Justice Higgins concluded his reasons for the decision, which enumerated many administrative failings, by saying:

> The history of this matter, regrettably, reflects little credit on the administration of the Magistrates Court.

One has to ask why was it necessary for this bill to be dealt with in this way at this time?

Mr Speaker, since their introduction, protection orders have been proven to be a necessary and useful innovation for the prevention of interpersonal violence. To cut to the position that the Labor Party takes in relation to this legislation tonight, the Women's Legal Centre and the Domestic Violence Crisis Service say that they have not been adequately consulted on this bill. There have been discussions, I understand, by the Attorney with those organisations—I think in the last two weeks—when the Attorney became aware of the positions which the Labor Party and the Greens have taken in respect to this bill. The Greens have also consulted now with those organisations, as has my office.

The position that continues to be put to me by both the Domestic Violence Crisis Service and the Women's Legal Centre is that they have not been availed of an appropriate opportunity to be consulted or to consult with their stakeholders in relation to this legislation. They remain of the view that those issues in this bill that go, in particular, to the way in which domestic violence orders are treated is unacceptable. It represents a significant and, in their view, a major change of policy and focus that they do not accept. They wish to consult with their client group and their stakeholders, and they want an opportunity to have meaningful input into the legislation.

It beggars belief that the government, which prides itself on its commitment to consultation, did not consult with the group of most significant stakeholders in relation to such a sensitive issue as domestic violence. It is simply mind-boggling that the government has brought into this place legislation which makes a significant change to arrangements or procedures in relation to domestic violence without consulting, in the preparation of that legislation or in relation to its administration, with the Domestic Violence Crisis Service, the Women's Legal Centre or the government's own Domestic Violence Council. It is staggering that the government has chosen not to do so. In an environment where those organisations are now aware of the legislation and have come to the Attorney and said, "We want an opportunity to make meaningful input into this bill," the government chooses to crash it through tonight at the last sitting of this Assembly.

In the government's words, we are dealing here with minor technical matters. In terms of the government's own presentation speech, we are addressing criticisms made by the Supreme Court of some Magistrates Court administrative matters; issues that will not be dealt with in this legislation in any event. These amendments are mainly machinery for administering matters that are not being dealt with through this piece of legislation. The government's stated reasons for persisting with this legislation are quite spurious. There is simply no real reason for pushing ahead with this legislation, particularly in an environment where you know that the major stakeholders are offended by the process, do not support the process, and do not support the legislation.

The Labor Party will not support this legislation in these circumstances, to some extent irrespective of some of the so-called technical provisions which we would otherwise have no difficulty in supporting. In an environment where you have not consulted, where those that have not been consulted remain aggrieved, the Labor Party will not support this legislation.

MR STEFANIAK (Minister for Education and Attorney-General) (7.52), in reply: Mr Speaker, I am amazed at how people talk about consultation in this place. They use it when it suits them, and when it doesn't suit them they come up with some reason not to consult. However, I will address the points raised by Mr Stanhope and Ms Tucker. I thank them for their comments, but I do not necessarily agree with them.

I point out to members, to start with, that this bill has been adjourned on probably four or five occasions over the last three weeks to enable the additional consultation which Mr Stanhope and Ms Tucker spoke of to take place. I am delighted to say that as a result of that consultation, and the amendments that the government will be moving as a result of that, the groups Mr Stanhope speaks of are somewhat more comfortable, and I will come back to that later. There are a number of things they would like to see occur if this bill is passed, and some of them would like to see it adjourned again. But at least they are somewhat more comfortable, and I will quote the salient point in one letter from the Women's Legal Centre later.

As I noted in my presentation speech, Mr Speaker, this bill is the end product of an extensive technical review of the current restraining orders and protection orders legislation. The primary purpose of the review was to fix problems with the legislation that had been identified in several Supreme Court cases. The government was also keen

that the review should simplify the current legislation in addition to fixing the technical defects. The Protection Orders Bill thus consolidates the protection order provisions of the Domestic Violence Act of 1986 and the restraining order provisions in part 10 of the Magistrates Court Act of 1930, and provides a single consistent process for dealing with both restraining orders and protection orders.

The bill addresses the issues identified by the Supreme Court. In particular, the bill clarifies the role of the Registrar in proceedings by providing a clear statement of the power of the Registrar to conduct a preliminary conference, make a consent order, and adjourn proceedings in specific circumstances. In response to the Supreme Court decisions, the bill also clarifies a requirement for a "likelihood of repetition" for a personal protection order. The bill includes a clear statement of objects and principles. The statement of principles in the bill is an articulation of the balancing of rights that is undertaken by the court in making a protection order. The protection of the aggrieved person is the paramount consideration. Within this framework, however, any protection order should be the least restrictive of the personal rights and liberties of the respondent, while still giving effect to the paramount consideration.

I will deal with workplace orders now because I think Mr Stanhope mentioned them. I would like to say a few words about the workplace orders provision in the Protection Orders Bill. The bill takes a slightly different approach to the current provisions of the Magistrates Court Act. I think that is where Mr Stanhope said this is a bit different. The Magistrates Court Act focuses on individual employees as the aggrieved person, with the employer able to make an application on behalf of that employee. Under the provisions of the bill, the focus is on the workplace rather than the individual employees, and the employer becoming the aggrieved person for the purpose of making an application. This reflects the purpose of Mr Berry's Magistrates Court Amendment Bill of 2000. Mr Berry outlined the basic reasons for allowing an employer to make an application on behalf of an employee in his presentation speech, and I will quote from page 1338 of *Hansard* of 10 May 2000. He said this:

> I take the view that no worker need take home the problems that are created in their workplace and there ought to be a straightforward protection for the most part to deal with those sorts of issues. … In considering the implications of the provision for teachers I became aware that there were, as I said earlier, other employees who could become an aggrieved person because of their work.

The emphasis is on employees needing protection because of their work. This is the relevant connection that is the basis of the workplace order provisions and hence, under the Protection Orders Bill, the focus is on the workplace rather than the individual employees, with the employer becoming the aggrieved person for the purposes of making an application. Members may recall the earlier debate on Mr Berry's bill which included considerable debate on whether the details of the person making the complaint could be protected. By making the employer the aggrieved person, the Protection Orders Bill avoids this difficulty.

I come now to consultation. It has been suggested that debate on this bill should be delayed. Now the Labor Party want to knock it off totally so that it could be more widely considered in parts of the community. Mr Speaker, it would have been very difficult to consult widely on this legislation prior to its preparation because of the fact that it is extremely technical in nature. Again I emphasise that it is a technical rewrite. It does not

make substantive changes to the policy underlying the existing legislation, but rather consolidates that legislation into a single simple bill.

Detailed consultation, prior to the recent spate of it, did occur with the Magistrates Court, the Director of Public Prosecutions and the Legal Aid Office, amongst others, during the development of the bill, and from a technical point of view the government is confident that the bill works. Officers from the department who worked on the development of the bill have also recently had discussions on the bill with representatives from the Women's Legal Centre, the Domestic Violence Crisis Service and the Domestic Violence Prevention Council. It is as a result of that discussion that our amendments to the bill have been prepared.

I note, and I think Mr Stanhope referred to this, that the scrutiny of bills committee has raised no concerns with the bill. That committee raises concerns about a lot of bills; detailed concerns; volumes of concerns in many instances. I think it is very significant that this meticulous committee and its very meticulous adviser, as is what one would expect and want, have raised no concerns.

The government is firmly focused on the need to ensure that people are protected from violence. The Protection Orders Bill will provide a more effective means of achieving this outcome. Yes, you could throw it out and it would have to be brought in again, but what would be achieved by that? The fact is that the existing legislation does not work as well as it should, and this bill presents an opportunity to deliver significantly better outcomes to people seeking protection from violence, which surely is what we are all about. This is something that the government, and I hope the Assembly, would like to see done sooner rather than later.

Mr Speaker, I mentioned earlier the consultation that has occurred in the last few weeks. I state again that this is a technical rewrite and it is not intended that we make wholesale changes. The bill does not make the types of policy changes that may be suggested by the model domestic violence laws. It might have been Ms Tucker who suggested this.

The Domestic Violence Prevention Council is currently reviewing the model domestic violence laws. It is not the intention of this bill, Mr Speaker, to impinge upon or in any way to pre-empt any recommendation that the council may make as a result of its review. The government sees the work of the council in respect of a model domestic violence law as a law reform exercise involving very important and substantive questions of policy. The council members kindly donate their time, and I think it is a good use of their resources to give priority to questions of substance rather than the technical form of legislation. At any rate, Mr Speaker, there has been consultation with them in relation to this technical legislation, and we have amendments as a result of that.

I would also anticipate that the council's report and recommendations, when they are complete, will give rise to substantive policy questions which may lead to significant changes to the legislation at a later date. The policy questions are a completely separate issue from this legislation, which is, as I think most people accept, a technical rewrite.

Pending the outcome of the council's consideration of the model domestic violence laws, the government is concerned to ensure that the orders made under the existing policy framework are enforceable. The fact is, and the courts have said this, that the existing

legislation does not work as well as it should. When you have interim orders that go, in one instance, for 33 months, that does not serve anyone's interest. Those things do need to be cleared up. The Supreme Court was quite right to point to problems, and I do not think all of them have been fixed but just adjust a few little administrative arrangements within the courts. This bill does hit the spot in terms of those problems which were properly raised in the Supreme Court.

I said earlier that the Women's Legal Centre had raised some concerns, and yes, I think they would still prefer that the bill be further adjourned, but we are at the end of the Assembly. They were realistic. They did say that the amendments go some way towards meeting their concerns, but they do not go far enough to allow them to have wholehearted support for the bill. Fair enough.

Given the circumstances of their concerns, they suggested that if the bill is passed the government undertake to consult widely on the proposed regulations and undertake to consider further amendments following consultation on the regulations, a report from the Domestic Violence Prevention Council on the consistency of the new legislation with model domestic violence laws, and a review of the new legislation after a short period of operation, for example six to 12 months, including analysis of the types of orders made under the previous and new legislation, preferably by an independent expert body with access to reliable data.

In terms of consultation on the regulations and those points, Mr Speaker, I can say that this government is happy to give a commitment to consult with relevant stakeholders, including community stakeholders, on the regulations. The Protection Orders Bill has a delayed commencement that would allow this to occur. Again I emphasise that the regulations would be technical in nature, and consultation would be confined to questions of technical operation rather than any possible substantive policy issues.

Of course, the government will also be monitoring the operation of the legislation from day one. Having said this, I can see no difficulty with the suggestion that the legislation be reviewed after a period of operation. I would suggest that 12 months would be a better period than six months, but they say six to 12 months, so I do not think they would have a problem about that. I would say that 12 months would be a better period for this purpose as it would give a more comprehensive picture of how the legislation is tracking.

Finally, Mr Speaker, this bill will make the law in relation to protection orders clearer. It will make it more accessible. But primarily the bill will provide a more effective mechanism to protect people from interpersonal violence. The people who seek protection orders need the assurance that the orders that they are granted when it comes to the crunch are going to be enforceable. That is what the bill is designed to do, and I would urge members to support it.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes, 9		Noes, 8	
Mrs Burke	Mr Osborne	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Smyth	Mr Corbell	Ms Tucker
Mr Hird	Mr Stefaniak	Mr Hargreaves	Mr Wood
Mr Humphries		Mr Quinlan	
Mr Kaine		Mr Rugendyke	
Mr Moore			

Question so 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) (8.07): I ask for leave to move the eight amendments circulated in my name together.

Leave granted.

MR STEFANIAK: I move the eight amendments circulated in my name *[see schedule 4 at page 3909]*.

I do not think these amendments are terribly controversial. I also seek leave to incorporate in *Hansard* my speaking notes on those amendments, which will save us a little bit of time.

Leave granted.

The speaking notes read as follows:

> **Separate Domestic Violence legislation—Government Amendments 1 & 8**
>
> One of the issues of concern that has been raised is the fact that the domestic violence orders have been incorporated with legislation that covers protection orders generally.
>
> I understand that the concern is that this may lead to the community losing some focus on domestic violence.
>
> The reason for combining the domestic violence orders legislation with the restraining orders legislation in the Bill was to achieve consistency in what is essentially the same process.
>
> Both the *Domestic Violence Act* and part 10 of the *Magistrates Court Act* essentially deal with the same thing - the protection of people from violence—and there is no logical reason for having two separate, slightly different, processes for obtaining an order under each.

I have, however, taken note of the concerns expressed about there being an appropriate emphasis on domestic violence.

Government Amendment 1 puts the domestic violence object of the Act first in the Objects clause.

Government Amendment 8 amends the long title of the Bill to include specific reference to domestic violence and personal violence.

Extensions to final orders—Government Amendment 3

The provisions relating to the extension of final orders in clause 37 of the Bill have been drafted consistently with the general scheme of the legislation.

The provision provides that the Magistrates Court may only extend an order if satisfied that the order is still necessary.

The current provision in the Domestic Violence Act places the onus on the respondent to establish that an order should not be extended.

The current provision is inconsistent with the general scheme of the legislation, where the Magistrates Court is required to consider whether there is a basis for the order.

Under the current provision, the absence of the respondent will result in the automatic extension of an order without any Court consideration of the substantive issue.

In all other orders, the Court is required to turn its mind to the question of whether there is actually a basis for the order.

There has been some concern expressed with this provision and the fact that it is a change from the current domestic violence legislation.

I have taken these concerns on board.

Government Amendment 3 amends clause 37 to provide that the Magistrates Court, in considering an application to extend a domestic violence order, must extend the order unless satisfied that the order is no longer necessary to protect the aggrieved person from domestic violence by the respondent.

In consideration of issues of balancing rights, such an extension is limited in length to one year.

There are currently no provisions for extension to restraining orders under the *Magistrates Court Act.* For this reason, clause 37 remains unchanged in respect of personal protection orders. That is, the Magistrates Court must be satisfied the order is still necessary.

Length of interim orders—Government Amendment 6

Putting an explicit constraint on the length of interim protection orders was something which the Government has considered carefully.

The current legislation provides no restriction on the period of time for which an interim order may be extended. In the Supreme Court case that prompted the Government to include a time restriction on interim orders in the Bill, the interim restraining order was in force for 21 months.

In the context of the maximum period of 12 months for a final restraining order, this is unacceptable.

This case clearly demonstrated the discrepancy in the current legislation that allows an interim restraining order to continue in force for a period of time that is longer than the period of time for which a final restraining order may be made.

From the policy perspective, is undesirable that interim orders, which are made without the need to have regard to the same rigorous considerations as final orders, should continue in force for an extended period of time without being properly tested.

There are significant issues with imposing restrictions on a respondent's liberty, without any consideration of the impact of those restrictions.

For this reason the Bill includes an overall maximum time limit for an interim order of 16 weeks. The Bill also provides that any one extension of an interim order may not be for more than 8 weeks. Where an interim order is consented to, however, the parties may consent to an order of up to 16 weeks without any review within that timeframe.

The time limits on an interim restraining order in the Bill are intended to ensure that matters do not carry on indefinitely without adequate review, whilst also being cognisant of the burden that unnecessary review would have on the parties and the resources of the court.

Legislation of this type is intended to provide a quick, effective means of seeking protection from violence. Having interim orders continuing in force for excessive periods of time is not consistent with the quick resolution of matters.

Both applicants and respondents will benefit from an early resolution to proceedings.

In addition, clause 59 of the Bill allows a further interim order to be made but only where there are special or exceptional circumstances that justify the making of the further interim order.

Government Amendment 6 amends clause 59 in response to concerns raised in discussion with community stakeholders to clarify that "special or exceptional circumstances" is to be determined having regard to the principles of the Act.

Application provisions—Government Amendment 2

Under the Protection Orders Bill, the distinction between the applicant and the aggrieved person has been removed.

This was quite deliberate as the existing situation is extremely confusing. For example, it is not apparent whether an applicant who is separate from the aggrieved person is required to act in the best interests of the aggrieved person.

The Bill instead makes explicit use of the "next friend" construct. This is a well established and well accepted construct and it avoids the current potential conflict between the interests of the applicant as a separate party to the aggrieved person.

Government Amendment 2 inserts a new note at the foot of clause 12 in response to clarify the meaning of "next friend". This note is included in response to concerns expressed by community stakeholders that a "next friend" is a legal concept that might not be familiar to many users of the legislation.

Miscellaneous clarifications—Government Amendments 4, 5 & 7

Government Amendment 4 inserts a new Note 2 in clause 48 to refer back to clause 13. This note is included at the suggestion of community stakeholders as a pointer to users of the legislation that an interim order, once it is made, may be amended or revoked on application.

Government Amendment 5 inserts an example of how the Magistrates Court may be satisfied that adequate arrangements have been made for the care and protection of a child. This example is included in response to concerns expressed by community stakeholders That it is not clear how the Magistrates Court might be satisfied of these matters prior to making an interim protection order.

Government Amendment 7 is similar to Government Amendment 5. It inserts an example of how a judicial officer might be satisfied that adequate arrangements have been made for the care and protection of a child.

Amendments agreed to.

MS TUCKER (8.08): I seek leave to move an amendment that is now being circulated.

Leave granted.

MS TUCKER: I will read it out for the information of members. It basically puts in a sunset clause and asks for a review. It reads:

Insert new section 106A:

Review

(1) The Minister will ask the Domestic Violence Prevention Council to review the relevant sections of this Act and its regulations for consistency with Model Domestic Violence Laws as soon as practicable, and no later than six months after the commencement of the Act;

(a) The report on the review must be presented by the Minister to the Legislative Assembly within 3 sitting days of receipt of the report;

(2) The Minister must review the operations of the provisions of this Act relating to domestic violence as soon as is practicable after 6 months but no later than 12 months after the commencement of this Act;

(a) The review must engage in relevant community consultations;
(b) The Minister's report must describe the processes of community consultation used in the review;

(c) A report on the outcomes of the review must be presented by the Minister to the Legislative Assembly within six months after the end of the 12 months.

(3) This section ceases to have effect 12 months after the Act commences.

I think I am making it clear. I move the amendment *[see schedule 5 at page 3911]*.

MR STEFANIAK (Minister for Education and Attorney-General) (8.10): Mr Speaker, I am quite happy to have a review, but I think to put it in legislation like that is a bit quick. I have just been given the amendment. I am not going to make an immediate decision on that. I have a natural reluctance, as the Attorney, to have something like that put in legislation. I have indicated that we are quite happy to have a review. We would do that within 12 months. I think that is the appropriate form rather than having it put in legislation. I cannot think of acts where this sort of thing is included. I have indicated that we will have the review, and I am happy if Ms Tucker wants to bring this one back at the next Assembly. I say again that we will have the review within 12 months. I am not prepared to agree to this amendment at this point in time.

MR KAINE (8.11): Mr Speaker, on this issue I agree with the Attorney. I do not believe that this is an appropriate provision to be built into the statute. There is going to be a lot of water run under the bridge over the next few months. At the appropriate time, if Ms Tucker is still here and she still wants such a review done, there are other ways of achieving it. They would be much more preferable to me than trying to embed this in the statute. I will not support this amendment.

MS TUCKER (8.11): For the information of members, we got this idea from the Rehabilitation of Offenders Act. We haven't invented the concept. We got it from there.

MR STANHOPE (Leader of the Opposition) (8.12): The Labor Party will support this amendment. I was just looking for the amendment. I think at dinner time we included in the Defamation Bill a government amendment, or Mr Osborne's amendment—I am not sure whose amendment it was—which required that the defamation legislation be reviewed.

Mr Stefaniak: That is right, but it was not as prescriptive as that.

MR STANHOPE: Well, Ms Tucker is a bit more thorough than the government. We did precisely this in the last bill debated and passed in this Assembly. This is reasonable, particularly in the context of the points that Ms Tucker and I have made. Despite what the minister said in his long speech, these organisations have not been consulted. As I said before, it beggars belief that we are in the process of passing legislation dealing with no more difficult, intractable and sensitive an issue that communities face than domestic violence perpetrated in the home. There is no more difficult and intractable issue in the social problems that communities have to deal with than this issue.

There are some organisations within the community that have a detailed, profound, specialist understanding of these issues, and guess who they are? They are the Domestic Violence Crisis Service, a service which exists for one purpose only, the Women's Legal Centre, the organisation in this community that knows more about issues that impact on women in a legal sense than any other organisation, and the Domestic Violence

Prevention Council, the government's own council which it ignored. That is the context of this motion that Ms Tucker has moved, and just tonight, in the case of the defamation legislation, we agreed to a government/Osborne amendment to insert such a provision in the Defamation Bill. This amendment should be supported.

MR MOORE (Minister for Health, Housing and Community Services) (8.14): Mr Speaker, I scanned through the Defamation Act. As I recall, it was something like a 24-month gap and a review by government.

Mr Wood: Yes, things move more slowly there.

MR MOORE: Indeed. There is a concern. Mr Stefaniak has said, "We will review it." He has committed the government to reviewing it. Ms Tucker has put up a prescriptive review, with an independent body, the Domestic Violence Prevention Council, doing the review. We do not know what resources are available to them, or how they will be able to do it and so forth. This is a decision we are making on the spur of the moment, zooming through without any consultation at all. I wonder whether anybody has asked the Domestic Violence Prevention Council if they want to do this review.

Ms Tucker: Yes, they do. They asked us to do it.

MR MOORE: Ms Tucker says they have asked for it. That may well be the case. Mr Stefaniak is saying, "Yes, we are happy to do a review. We are taking your point. We will do a review." This does not have to be in the legislation because we are going to do it. We can make sure that the appropriate resources and the appropriation system is brought to bear. I think that is a reasonable position for Mr Stefaniak. Had this been circulated earlier and we had had a chance to look at it, and maybe modify it, I think that would have been a reasonable way to go about it.

MR HARGREAVES (8.15): Mr Speaker, I have been listening to this debate. I have not been involved in the make-up of all the bits and pieces, but what strikes me as being absolutely abhorrent is that we are being asked to pass legislation without really detailed input from people who represent the primary victim in all this stuff. Mr Stanhope is saying that there are key stakeholders involved in this thing that have not had their input. We have not had the benefit of their advice. They deal with these victims every day of the week.

We all abhor domestic violence. I am sure none of us here would not abhor domestic violence. We get bagged out for not having any women representative on this side of the chamber. The main body of this Assembly is made up of men. We have an opportunity to ask these people who deal with women who have been battered what they think of this bill. Why do we want to do that? Because we want the best protection for them.

This is not a political point-scoring game. Where the heck, Mr Speaker, do we get off making decisions like this on behalf of people who are going to suffer the consequences of this? It's just unbelievable. As Mr Stanhope says, it beggars belief.

Mr Moore actually went along with these sorts of provisions in the rehabilitation of offenders legislation. Why do you think that was, Mr Speaker? It was because there was a slight chance, with the best of intentions, that we might have made a mistake, or that

things could be tidied up or done a little bit better. Where is the review mechanism in the Rehabilitation of Offenders Bill? Where was it? Do people remember? It was not in the regulations that we haven't seen. It was not in the draft instructions to the Parliamentary Counsel's Office that we looked at. It was in the body of the bill. Now it is in the body of the act. Put your sunset clause in it.

All Ms Tucker is asking for, on behalf of the Domestic Violence Prevention Council, is that they get involved; that they are inside the loop. The people that the government has appointed to advise us on the plight of these women want to be inside this loop. We men do not have the right to deny this sort of involvement in the loop. We just don't have that right. People can grin to themselves as much as they like, but I am not impressed with it at all, Mr Speaker.

Have a look at this amendment proposed by Ms Tucker. What is she saying? She wants the Domestic Violence Prevention Council to look at the relevant section of this act and see that it is consistent with the model domestic violence laws as soon as practicable. Okay, what have we got to be afraid of? Are we afraid that we might have cocked it up, Mr Speaker, and will be exposed? I might say to you, "So, what if we are?" These people are going to have a look at it and if it is good stuff they will say so. If we have made a mistake, then let us accept that and fix it. About 90 per cent of the people who suffer domestic violence are women. We are men. How many times do we have to say that?

What does the second half of this amendment say, Mr Speaker? It says that the minister must review the operations of the provision of this act as soon as practicable after six months and no later than 12 months. It's a heap of time. You have up to 10 months to do it. Where is the problem? Where is the threat? Why do people have to be frightened of this sort of amendment? They are frightened of this amendment, Mr Speaker, because they fear that it might be overly prescriptive. Well, in the interests of protecting people against domestic violence, how about we forget about being over prescriptive. I will tell you what is more over prescriptive, a black eye. That is more over prescriptive. All we have to do is to say, "Yes, fine, we will look at it." That is all this amendment is asking—that people look at the legislation and report back.

The third section of the amendment sunsets the whole lot inside 12 months. It does not say anywhere that if you don't do this sort of thing the whole act sort of implodes at 12 months. All it says is that this Assembly will have the benefit of the input from the Domestic Violence Prevention Council, and that the minister will review it and report back. That is basically all this says.

The reason why paragraphs 2 (a) and 2 (b) talk about the process of community consultation is that I believe Ms Tucker does not trust the community consultation process. I share that view. Why do you think that is, Mr Speaker? That is because this bill has been put on the table without the input of the Rape Crisis Centre and the Domestic Violence Prevention Council. It is because the consultation process on the creation of this bill was fundamentally flawed. What Ms Tucker is running, on our behalf, I have to say, is that she does not trust the consultation process and wants this put in the act. I think she is fully justified in doing so if the track record on this bill is anything to go by.

Mr Speaker, I urge members to stop being afraid of consultation in this regard. Stop being afraid of people telling us where we might have got it wrong. Start listening to the people who are walking around town with a black eye, with extra mascara on trying to hide it, or to people who sit and quiver in fear in their own homes. It is men who go out there and belt these women. We have no right to pass this bill without proper consultation, without proper input by the experts, and the government's own experts at that. I do not see what on earth is wrong or what is so threatening about input from the Domestic Violence Prevention Council or the Rape Crisis Council. I urge every member in this place to put their feelings of threat behind them and to support Ms Tucker's amendment.

MS TUCKER (8.22): I seek leave to move a revised version of my amendment.

MR SPEAKER: I see that. It is being circulated now. Do you want to outline it?

MS TUCKER: I can speak to it as it is being circulated, if members are happy with that. Basically, I have revised the time period. People here have expressed concern that it was not enough time, so I have changed it from six months minimum and 12 months maximum to 18 months minimum and two years maximum, seeing that Mr Stefaniak and other members are concerned about the time being too short. I now move my revised amendment *[see schedule 6 at page 3912]*.

MR MOORE (Minister for Health, Housing and Community Services) (8.23): I understand that the Attorney will be moving a further amendment to Ms Tucker's amendment. He is preparing that at the moment. I think it is reasonable for Ms Tucker to say that she recognises that an extra bit of time may be necessary and that she is prepared to make that compromise and revise her amendment. It seems to me that whenever we are dealing with things like domestic violence we all have to take an amount of care. The government recognises that. I believe the government is still opposed to her amendment, although we do recognise that this is a reasonably sensible move forward.

One of the government's concerns, I think, is that it is normal practice for a government to appoint a review. In this case the Legislative Assembly takes over that role and puts it into the bill. This Assembly recognises that where something is in an act the government is bound, and I presume that will be the case also in the Fourth Assembly.

Mr Kaine raised earlier the different methods we can use to have reviews like this done. A motion would achieve that as well. However, I think this will come down to a vote of the Assembly. One of the important things is the model domestic violence law. Ms Tucker's approach in seeking to ensure consistency with that is also important. In the first paragraph, we need to check the six months there and make sure that it is consistent with the later part of the amendment.

The other difficulty, Mr Speaker, is that this is a very late amendment to something that has been on the table for some time, particularly considering the amount of criticism that was levelled at my good friend and colleague Mr Stefaniak about his lack of consultation. Mr Speaker, I understand that Mr Stefaniak will be circulating his amendment shortly to see whether we can get a sensible agreement to this.

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

Protection Orders (Consequential Amendments) Bill 2001

Debate resumed from 23 August 2001, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

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

Committee reports of the Fourth Assembly—publication

MR CORBELL (8.27): I ask for leave to move the motion circulated in my name to authorise the publication of committee reports of the Fourth Assembly.

Leave granted.

MR CORBELL: The purpose of this motion is to allow publication of these reports on the Internet. A list has been circulated outlining the complete range of committee reports completed by standing and select committees of the Fourth Assembly. I move:

> (1) That this Assembly authorises the publication of the following reports by the nominated committees of the Fourth Assembly:
>
> **Standing Committee on Administration and Procedure:**
> Order of Private Member's and Assembly business.
> Register of Member's Interests
> Protocol for Government interaction with Assembly committees.
> Standing order 8—Temporary Deputy Speakers
> The Operation of the *Legislative Assembly (Broadcasting of Proceedings) Act 1997*
> Report on proposed amendments to Standing Orders relating to disorder, questions without notice and voting
> The Use of Commercial-in-Confidence material and In Camera Evidence in Committees
> Inquiry into a Code of Conduct for Members of the Legislative Assembly and a Parliamentary Ethics Adviser for the ACT
> Legislative Assembly (Privileges) Bill 1998;
>
> **Standing Committee on Education, Community Services and Recreation:**
> The Future Provision of Preschool Education
> 1998-99 Annual and Financial Reports—Department of Education and Community Services and Related Agencies
> 2000-01 Draft Budget of the Department of Education and Community Services and Related Agencies
> 1999-2000 Annual and Financial Reports of the Department of Education and Community Services and Related Agencies
> The Government's response to recommendations 1 and 3 of Coroner Somes' inquest into a death at Quamby;

Standing Committee on Finance and Public Administration (incorporating the Public Accounts Committee):

An Independent Council on Competition Policy

Draft Principles and Guidelines for the Treatment of Commercial Information held by ACT Government Agencies

Implementation of Service Purchasing Arrangements

1998-99 Annual and Financial Reports—Chief Minister's Department and Legislative Assembly Secretariat

Draft 2000-01 Budget for the Chief Minister's Department

Draft 2000-01 Budget for the Department of the Treasury and Infrastructure

Draft 2000-01 Total Territory Financial Position

The Operation of the Financial Management Act 1996

Report on Chief Minister's Department Annual and Financial Reports 1999-2000

Department of Treasury and Infrastructure Annual and Financial Reports 1999-2000

Legislative Assembly Secretariat Annual and Financial Reports 1999-2000

Report on the Appropriation Bill 2000-2001 (No 2)

Review of Auditor-General's Report No 1, 1997—Contracting Pool and Leisure Centres

Review of Auditor-General's Report No 10, 1997—Public Interest Disclosures—Corrective Services

Review of Auditor-General's Report No 5, 1997—Management of Leave Liabilities

Review of Auditor-General's Report No 6, 1997—Canberra Hospital Management-Control of Salaried Specialists' Private Practice

Review of Auditor-General's Report No 8, 1997—Salaried Specialist's Use of Private Practice Privileges

Review of Auditor-General's Report No 13, 1997—Management of Nursing Services

Review of Auditor-General's Report No 9, 1997—Fleet Leasing Arrangements

Review of Auditor-General's Report No 10, 1997—Public Interest Disclosures—Lease Variation Charges and Review of Auditor-General's Report No 2, 1998—Lease Variation Charges—Follow-up Review

Review of Auditor-General's Report No 12, 1997—Financial Audits with Years Ending to 30 June 1997

Review of Auditor-General's Report No 7, 1997—Disability Program and Community Nursing

Review of Auditor-General's Report No 3, 1998—Major IT Projects-Follow up review

Review of Auditor-General's Report No 4, 1998—Annual Management Report for the year ended 30 June 1998

Review of Auditor-General's Report No 6, 1998—Assembly Members' Superannuation and Severance Payments to Former Members' Staffers

Review of Auditor-General's Report No 8, 1998—Territory Operating Losses and Financial Position

Review of Auditor-General's Report No 5, 1998—Management of Housing Assistance

Australasian Council of Public Accounts 5th Biennial Conference

Review of Auditor-General's Report No 9, 1998—Financial Audits with Years Ending to 30 June 1998

Review of Auditor-General's Report No 11, 1998—Overtime Payment to a Former Member's Staffer

Review of Auditor-General's Report No 10, 1998—Management of school repairs and maintenance

Review of Auditor-General's Report No 7, 1998—Magistrates Court Bail Processes
Review of Auditor-General's Report No 1, 1999—Stamp Duty on Motor Vehicle Registrations
Review of Auditor-General's Report No 2, 1999—Management of Year 2000 risks—Interim Report
Review of Auditor-General's Report No 2, 1999—Management of Year 2000 risks—Final Report
Review of Auditor-General's Report No 4, 1999—Financial Audits with Years Ending to 30 June 1999
Review of Auditor-General's report No 3, 1999—Annual Management Report for the Year Ended 30 June 1999
Review of the Auditor-General's Reports of the Performance Audit of Bruce Stadium (Reports 1-12, 2000 and 2-3, 2001)
The Presentation and Framework of the Capital Works Program
Public Access to Government Contracts Act 2000—Report on Auditor-General's Report
Review of the Auditor-General's Report No 4 2001—Peer-Based Drug Support Services Tender—1998;

Standing Committee on Health and Community Care:
Mental Health Services-Strategic Plan 1998-2001
1998-99 Annual and Financial Reports-Department of Health and Community Care and Related Agencies
Respite Care Services in the ACT
Report on the Inquiry into the 2000-2001 Draft Budget.
Report on Annual and Financial Reports 1999-2000 for the Department of Health and Community Care and related agencies
Elder Abuse in the ACT;

Standing Committee on Justice and Community Safety:
Children's Services (Amendment) Bill 1998
Victims of Crime (Financial Assistance) (Amendment) Bill 1998
Interim Report No 1 (Prison series)—Inquiry into the establishment of an ACT Prison Justification and Siting
Emergency Management Bill 1998
Agents (Amendment) Bill 1998
1998-99 Annual and Financial Reports—Department of Justice and Community Safety and Related Agencies
Crimes (Amendment) Bill (No 4) 1998
Interim Report No 3 (Prison series)—Committee visit to Western Australia, the Northern Territory and South Australia
The 1999-2000 Annual and Financial Reports of the Department of Justice and Community Safety and Related Agencies
The Defamation Bill 1999
The Executive Documents Release Bill 2000
The ACT Prison Project: Operational Models, Strategic Planning and Community Involvement
The Freedom of Information (Amendment) Bill 1998
The Commission for Integrity in Government Bill 1998
Scrutiny Reports
1 to 15 of 1998
1 to 16 of 1999
1 to 16 of 2000
1 to 15 of 2001;

Standing Committee on Planning and Urban Services

Draft Variation No 97 to the Territory Plan—Northbourne Avenue
1998 Conference of Parliamentary Public Works and Environment Committees
Environment Protection (Amendment) Bill 1998—Exposure Draft
ACTION bus services for school children
Water Resources Bill 1998 and amendments
Draft Variation No 63 to the Territory Plan—Policies for Home Businesses and Home Occupations
Draft Variation No 105 to the Territory Plan—Symonston section 103 block 6 Mugga Mugga
Interim Report on Draft Variation to the Territory Plan No 89—Murrumbidgee and Lower Molonglo Rivers-River Corridors Land Use Policy—Public Land Categories; and other Minor Changes
Tidbinbilla Nature Reserve—Final Draft Management Plan 1998
The Existing Petrol Sites Policy
Draft Variation No 98 to the Territory Plan—Water use and catchment policies
Draft Variation No 124 to the Territory Plan—Charnwood section 94 block 1 (former school site)
Activity in its First year of Operation
Code of Practice for the Placement of Movable Signs in Public Places
Draft Variation No 117 to the Territory Plan—Heritage Places Register (Mt Franklin ski chalet, huts, homesteads and brumby yards)
Draft Variation No 137 to the Territory Plan—O'Connor section 86, block 2, Macpherson Courts
Carparking at Exhibition Park in Canberra (EPIC)
Report on Attendance of the Standing Committee for Urban Services at the National Conference of Parliamentary Works and Environment Committees in Hobart 13-15 September 1999
Warrants for Traffic Calming Measures
Motor Traffic (Amendment) Bill (No 4) 1998 and circulated amendments
Long Service Leave (Cleaning, Building and Property Services) Bill 1999
Draft Variation No 100 to the Territory Plan—Telecommunications Facilities Policies
Betterment (Change of Use Charge)
Draft Variation No 113 to the Territory Plan—Kingston Foreshore
The Draft 2000-01 Budget for the Department of Urban Services (DUS)
Draft Variation No 114 to the Territory Plan relating to a proposal to add the Red Hill Precinct to the Heritage Places Register
Activity in 1999-2000
Conference of Parliamentary Public Works and Environment Committees at Parliament House, Darwin, July 2000
Draft Variation to the Territory Plan No 146: Callam Street Realignment—Woden Town Centre.
Draft Variation to the Territory Plan No 159: Heritage Places Register-Albert Hall
Motor Traffic (Amendment) Bill (No 3) 1998
Proposals for the Establishment of Rural Residential Development as a Land Use
Monitoring the Implementation of Variation No 64 to the Territory Plan: Latham Shops
Examination of Allegations of Possible Improper Influence of a Witness
Tuggeranong Lakeshore Master Plan
Draft Variation to the Territory Plan No 140 Existing Produce Market Sites—Greenway Section 2 Block 5 and Belconnen Section 31 Block 5

Revised Draft Variation to the Territory Plan No 89 Murrumbidgee and Lower Molonglo Rivers-River Corridors Land Use Policy: Public Land Categories and other minor changes
1999-00 Annual Report of the Department of Urban Services
Proposals for the Gungahlin Drive Extension (John Dedman Parkway)
Draft Variation No 152 Community Facility Land Use Policies—Forrest Section 24 Blocks 1 and 3 (Part of St. Christopher's Precinct—Manuka)
Draft Plan of Management for Canberra's Urban Lakes and Ponds
Inquire into and report on the proposed development at South Bruce Section 21 Blocks 1,3 and 4 and traffic arrangements on Haydon Drive
Draft Variations to the Territory Plan: No 158 Commercial B2C land use policies—Proposed changes to group centre policies; and No 163 Kippax Group Centre—Proposed Expansion of Retail Core
The proposed Amaroo community precinct
Draft Variation to the Territory Plan Review Part A (General Principles and Policies)
Draft Variation No 138 to the Territory Plan—Gungahlin Drive Extension
The Draft Village of Hall Master Plan
Proposals to Duplicate Fairbairn Avenue
A Land Administration Information System for the ACT
Draft Management Plan for the Lower Molonglo River Corridor
The National Competition Policy Review of ACT Taxi and Hire Car Legislation
Activity of the Standing Committee on Planning and Urban Services in 2000-2001

Select Committee on the 2001-2002 Budget
The broad parameters of the 2001-2002 budget

Select Committee on Estimates 1999-2000
Appropriation Bill 1999-2000

Select Committee on Estimates 2000-2001
Appropriation Bill 2000-2001
Appropriation Bill 1999-2000 (No 3)

Select Committee on Estimates 2001-2002
Budget 2001-2002

Select Committee on Gambling
A Poker Machine Cap-interim report.
The Proposed Gaming and Racing Commission—interim report.
The Social and Economic Impacts of Gambling in the ACT-final report.

Select Committee on Government Contracting and Procurement Processes
Report

Select Committee on the Report of the Review of Governance
Report

Select Committee on the Territory's Superannuation Commitments
Report

Select Committee on Workers' Compensation System
Report;

and

(2) (a) prior to any publication of Committee reports on the Internet the Clerk establish procedures to provide for the integrity of committee reports in electronic publication; and
(b) the reports of the standing and select committees of the Fourth Assembly be published on the Assembly's website.

Question resolved in the affirmative.

Environment Protection Amendment Bill 2001

Debate resumed from 28 June 2001, on motion by **Mr Smyth**:

That this bill be agreed to in principle.

MS TUCKER (8.29): This bill contains a range of amendments to the Environment Protection Act that have arisen from a recent government review of the act. Most of the changes are relatively minor, but they have prompted the Greens to do their own review of the act and to revisit some of the issues that were debated when the Environment Protection Act was first passed in 1997. Our conclusion is that many more improvements could be made to the act than the government has proposed. We also disagree with some of the specific amendments that the government has proposed.

One symbolic change the government has made is to change the name Environment Management Authority to Environment Protection Authority. The Greens always thought that Environment Protection Authority was the best title and argued this when the legislation was first debated here. It is good to see that the government has come round to our point of view on that.

Of course, there is still the issue that the authority is really just one person, unlike EPAs in the other states. We believe that the authority should be an independent statutory organisation, not just one person in Environment ACT.

Another good change is the removal of the word "territory" from the objects of the act so that the objective is now to protect the whole environment, not just the environment in the territory. The environment knows no state borders. It is good to acknowledge this in the act.

The bill also reduces public notification requirements for environmental authorisations. I can understand the minister's concern about having to notify things that may not be of much public interest. I agree that there could be a net benefit in reducing the notification for decisions made by the authority at the end of the process, but this is quite a different issue to public notification of applications and public comment at the start of the process, before the authority makes its decision. In fact, I believe that there are a number of inconsistencies and inadequacies in other public consultation processes in the act which need addressing. I will talk about those more when we get to the detail stage of the bill.

I also like the addition of the requirement for environment improvement plans to have regard to best practice but, again, I do not think this concept is being consistently applied across the act. I have some amendments that address this point.

The inclusion of sterilisation of clinical waste as a prescribed activity requiring an environmental authorisation is also important and obviously necessary with the proposal to set up such a plant at Totalcare in Mitchell.

Overall, I agree with the government about the desirability of reviewing the Environment Protection Act, but in many instances I have come up with different conclusions on what needs to be changed and have prepared a range of amendments to the bill which I will go through in the detail stage.

MR MOORE (Minister for Health, Housing and Community Services) (8.31): It gives me pleasure to rise to support this government legislation. The review of the Environment Protection Act has been a particularly important process conducted by Mr Smyth. There was huge community consultation. I have spoken to many members of the community about this issue, and I know that they are very keen to see the legislation improved and are comfortable with this bill.

The consultation process included consultation on the protection of a range of endangered species like legless lizards, earless dragons, spineless echidnas and furry dungbats. Their protection is very important.

Community consultation on this bill contrasts markedly with consultation on the amendments that are being put up. I have spoken to the community about the amendments we will come to specifically in the detail stage. The community tell me that they do not want these amendments. They see them as much too hard line and going right over the top. I will be opposing the amendments, having listened to the community thoroughly and the community having told me that they do not like the amendments the Greens will be putting up. It was hard for me to talk to the community. I had so little time to do the consultation when I received these amendments. But the consultation on the amendments Mr Smyth has tabled was done beautifully. Unfortunately, there was a lack of consultation on the others.

The lack of consideration of the furry dungbat, the spineless echidna and other endangered species has caused me a great deal of concern. That concern has come to the point where I just cannot bring myself to vote to support the Greens amendments. However, I am pleased to lend my support to the well thought through amendments that Mr Smyth consulted on and distributed quite some time ago.

MR BERRY (8.34): I think Mr Moore has set out to try to damage Ms Tucker's character and her credentials. I heard a long and tedious speech from Mr Moore earlier on today. I think his speech now flies in the face of what he said earlier.

Ms Tucker: What did he say?

MR BERRY: He said lots of things. He gave a speech today about criticising people and tearing into the character and credibility of others. It is probably beyond him to damage Ms Tucker, because she is well respected for what she does on the environment and in

many other areas, although not as well respected as Simon Corbell is. After listening to your speech today, I did not expect to hear that level of angst, Michael.

MR SPEAKER: We have a lot of work ahead of us. The time for bouquets will be a little later in the evening.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (8.36), in reply: I thank members for their support. It is clear that the government amendments will go through. I thank people for that. In the main, they are minor and follow the review of the act.

The significant change is to change the Environment Management Authority to the Environment Protection Authority. This is to make us consistent with other jurisdictions. "EPA" is a term that I think the majority of people understand. They clearly understand the purpose of an EPA.

The rest of the changes are minor or technical. They include clarification of definitions and the interpretation of sections and a requirement that environment improvement plans have regard to best practice. They clean up the act following our consultation with the public.

The bill will remove the word "territory" from the objectives. That clearly recognises that the environment does not stop at the territory's borders. We have to take responsibility for cross-border environmental impacts of such things as noise from motor sports.

A small change has been made to the time lines for an auditor to report in relation to contaminated land and contaminated sites. Again that will align ACT and New South Wales legislation.

Two other changes will lead to better operational and environmental outcomes from the administration of the act. The first is in relation to public notification requirements for certain environmental authorisations and agreements. We spend tens of thousands of dollars every year on public notification of minor authorisations and agreements, and no response at all is made to these public notifications. Nothing has ever been received. I would rather spend that money on the environment than on useless notification.

The bill also provides that for certain classes of environment protection agreements and environmental authorisations do not require public notification. These classes would cover only proposed minor activities with minimal or no impact on the environment. The minister must declare these classes by disallowable instrument, and thereby the Assembly retains oversight of the whole procedure.

Environment ACT is developing a database of all the current environmental authorisations and protection agreements. This database will be publicly accessible on its completion. It will provide a complete picture of the authorisations and agreements and will be open to scrutiny by the community.

The second significant change will result in greater protection for the environment by giving authorised inspectors the power to take photographic, audio and video or other recordings as evidence without first having to obtain a warrant. The reason for this is that when damage is occurring it is important to gather evidence immediately. The power would be exercised only where the authorised officer had reasonable grounds for believing that the situation would be remedied by the time a warrant was obtained and where to meet the environmental protection needs such evidence should be obtained immediately. It is a commonsense amendment.

These amendments will make sure that environment protection in the ACT is up to date. I thank members who have indicated that they will be supporting the government's amendments.

Ms Tucker has also put forward a number of amendments that the government will not be agreeing to. We do not believe they add anything to the clarity or the functionality of the bill. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MS TUCKER (8.40): I move amendment No 1 circulated in my name *[see schedule 8 at page 3914]*.

This is the technical amendment put forward by parliamentary counsel regarding commencement provisions. The Legislation (Consequential Amendments) Act has made a number of amendments to the Environment Protection Act which have not yet come into effect, and there is a need to ensure that all the amendments are implemented consistently.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (8.40): The advice I have is that this amendment will make very little difference if it gets up. We do not think it adds anything to the value of the bill. We do not believe it should be made.

MR CORBELL (8.41): The Labor Party will be supporting this amendment from Ms Tucker. It does seem to be of relatively slight importance. Nevertheless, we are happy to accept Ms Tucker's view as to the appropriateness of this form of words.

MR MOORE (Minister for Health, Housing and Community Services) (8.41): I do not think it is appropriate to say what parliamentary counsel do. Parliamentary counsel draft according to instructions given by a member. Using the argument about parliamentary counsel, harmless though it is, is not appropriate.

Question put:

That **Ms Tucker's** amendment No 1 be agreed to.

The Assembly voted—

Ayes, 8		Noes, 9	
Mr Berry	Mr Stanhope	Mrs Burke	Mr Osborne
Mr Corbell	Ms Tucker	Mr Cornwell	Mr Rugendyke
Mr Hargreaves	Mr Wood	Mr Hird	Mr Smyth
Mr Kaine		Mr Humphries	Mr Stefaniak
Mr Quinlan		Mr Moore	

Question so resolved in the negative.

Amendment negatived.

Clause 2 agreed to.

Clauses 3 to 5, by leave, taken together and agreed to.

Proposed new clause 5A.

MS TUCKER (8.45): I move amendment No 2 circulated in my name *[see schedule 8 at page 3914]*.

This amendment is consequential to my amendment 6 relating to codes of practice, so we may as well debate that amendment now.

Amendment 6 rewrites section 31 to insert a formal process of public consultation over the development of codes of practice. At present section 31 just states that the minister must be satisfied that the code of practice has been prepared in consultation with persons or organisations in the industry and the public. This is not an accountable process and is inconsistent with other parts of the act which set out the public consultation processes for such things as environment protection policies and environmental authorisations.

My amendment is modelled on the existing section 25, which sets out the public consultation process for environment protection policies. This is about being consistent, and I am very surprised Mr Smyth will not support the amendment.

MR MOORE (Minister for Health, Housing and Community Services) (8.46): Although it was very difficult to consult with the community on this, because we have had it for such a short time, I did consult with the community, and the community objects to this amendment, for a whole range of reasons. I will touch on a couple of them.

Under proposed section 31A (5), the minister must send a copy of the proposed code of practice without charge to the Conservation Council of the South-East Region and Canberra and to the Canberra Business Council. The community members I consulted also wanted one sent to them and objected to the fact that the consultation process leaves

out a range of groups that may well be interested. The community is against this amendment, and we should vote against it in line with what the community thinks.

MR CORBELL (8.47): The Labor Party will not be supporting this amendment of Ms Tucker's. This amendment is consequential on Ms Tucker's proposed amendment 6. Amendment 6 sets out a consultation process for codes of practice. Ms Tucker has not made out a case for a requirement for the type of consultation process she is setting out.

It is already a requirement of the act that consultation be conducted, but the act does not specify how it should be conducted. Ms Tucker proposes to set out how that process of consultation will be conducted, but I do not believe she has made a case as to why it is necessary to specify how the consultation should take place.

Ms Tucker has not identified any problems with the way consultation has been conducted to date. The Labor Party is not convinced it is necessary to specify how the consultation takes place. We are satisfied to support the existing provisions, because there is a requirement for consultation and there has been no evidence that that process has been conducted in an inadequate manner.

Proposed new clause 5A negatived.

Clauses 6 and 7, by leave, taken together and agreed to.

Proposed new clause 7A.

MS TUCKER (8.49): I move amendment No 3 circulated in my name, which inserts a new clause 7A *[see schedule 8 at page 3914]*.

This amendment rewrites section 23, which is about the duty of persons to notify the Environment Protection Authority of actual or threatened environmental harm. Currently this section applies only to the persons conducting the activity that may be causing or has caused environmental harm. It does not apply to the persons who may observe the activity and realise that it is environmentally harmful.

This is a limitation. There is a problem in just relying on the person conducting the activity to report environmental harm, as they may be reluctant to do so if they think they have broken the law. It would be unfair to expect persons who are not knowledgeable about environmental matters to have to report environmental harm if they do not know the implications of what they observe.

The amendment, therefore, includes a defence of having a reasonable excuse in not reporting the activity and a defence of believing that the EPA was already aware of the environmental problem.

MR MOORE (Minister for Health, Housing and Community Services) (8.50): In my consultation with the community about this, they were particularly concerned about being mandated—

Mr Rugendyke: If you have spoken to the community, name one person. I bet you have not.

MR MOORE: I have.

Mr Osborne: Not people in your office.

MR MOORE: No. They are concerned about mandating somebody else. This is a serious issue about mandating other people to do this sort of reporting. Such mandating is unacceptable. It is important for us to monitor the environment and to encourage people to report environmental or threatened environmental harm. But mandating somebody to do it and imposing 50 penalty points if they do not is unacceptable.

MR CORBELL (8.51): Mr Speaker, the Labor Party will be supporting this amendment, after carefully considering the issues Mr Moore has raised. On the face of it, you would have to have some concern about a requirement that someone must report environmentally damaging activity if they witness it. Ms Tucker's amendment provides for circumstances where a person does not have to comply with this new requirement for reporting an environmentally damaging activity if they have a reasonable belief that the Environment Management Authority is already aware of the activity or if they do not understand the consequences of what they are witnessing. We believe there are satisfactory safeguards.

Let me put a hypothetical situation to members to demonstrate the scenario I think Ms Tucker is trying to address. Say a person operating a piece of machinery for a company is doing something which is causing environmental harm. There may be other employees around not undertaking the action which is causing environmental harm, but they would be aware that the person doing that harm had no authorisation to do that; that they were doing it illegally.

If you see something happening and you know it is happening illegally, you have a general environmental duty to report that that harm is going on. That is what this amendment seeks to achieve. We are comfortable with the approach, because it provides for sufficient defences. If people are genuinely unaware of the circumstances in which harm has taken place, that is a reasonable thing. We will be supporting the amendment.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (8.54): The government will be opposing the amendment. The current section 23 puts an obligation on the person conducting an activity to report it if it is causing or is likely to cause serious or material environmental harm and it is not authorised.

This amendment broadens the obligation to anyone who becomes aware of the situation. There is no need to cast the net so wide. The person conducting the activity will know and will be committing an offence by keeping silent. Other citizens will be able to report it if they wish. But making it an offence for them not to do so is broadening the legislation too much. It is not reasonable.

Mr Corbell put a hypothetical. What if there is an oil spill on the Adelaide Avenue? Everybody who drives past it and sees it but does not report it can in theory be charged under this amendment.

Mr Corbell: There are reasonable excuse provisions.

MR SMYTH: Mr Corbell says that there are reasonable excuses. Do we have to have a reasonable excuse for not doing something? We are going into the negative here. The people who create the problem should be responsible for it. To broaden the net further is not logical.

Question put:

> That **Ms Tucker's** amendment No 3 be agreed to.

The Assembly voted—

Ayes, 8		Noes, 9	
Mr Berry	Mr Stanhope	Mrs Burke	Mr Moore
Mr Corbell	Ms Tucker	Mr Cornwell	Mr Rugendyke
Mr Hargreaves	Mr Wood	Mr Hird	Mr Smyth
Mr Osborne		Mr Humphries	Mr Stefaniak
Mr Quinlan		Mr Kaine	

Question so resolved in the negative.

Proposed new clause 7A negatived.

Proposed new clause 7B.

MS TUCKER (8.59): I move amendment No 4 circulated in my name, which inserts a new clause 7B *[see schedule 8 at page 3914]*.

In the bill, at clause 10, the government has required that environmental improvement plans must have regard to relevant best practice. This is a good concept, as we do not want second-rate environmental practices used in the ACT. We want the ACT to set the lead. I think the bill should go further and extend the concept of best practice to all aspects of the Environment Protection Act. This amendment therefore adds the requirement for best practice in environment protection policies.

If Mr Moore wants me to talk in a little more detail about who was consulted with on this, I am happy to do that. It is important to know that the Environmental Defender's Office is one of the groups that told us that they think it is important to have this provision in the legislation, as is the conservation council. Mr Moore, as chair of the committee, you supported this in the original legislation, which is where this came from. You seem to have forgotten, or you are telling me across the chamber that you have learnt better. I realise that you are having a bit of fun with this legislation, but it is very important legislation.

I am concerned that today Mr Moore said that this place needs to conduct itself with dignity. This is important to the Greens. I think it is important to the Labor Party. I do not think it is okay for you to continue to make fun of a serious issue. You have the right

to disagree, as you said. I just do not appreciate your tone. It flies in the face of what you said and what I thought you meant today.

MR MOORE (Minister for Health, Housing and Community Services) (9.01): My consultation with the community would have me support this amendment. The debating technique seems to be upsetting Ms Tucker. It is conventional debating technique. You appeal to a higher authority. When people say, "Nelson Mandela said so and so," that adds weight to their argument.

For the last six years, I have heard you come in here and say, "But I appeal to a higher authority, the community." "The community" is much more difficult to pin down than Nelson Mandela. If you pin down Nelson Mandela, somebody can find another quote from him that may show something different. But when you say "the community", it could be anybody. We all consult the community very broadly. I am illustrating to you very clearly that you are using a debating technique.

Your perception of the community is very different from somebody else's perception of the community. Your perception that the conservation council represents the community or represents even the environment community is misguided. Although we listen to people who take a strong interest in environmental issues and who may be involved in the environmental council or be parts of groups that go to the environmental council, that does not give them the weight to influence what we do here. I have heard not just you but many people over the years talking about the community supporting this and the community supporting that. I have aptly illustrated this evening—and I do not think I need to do it any more—that it is a very poor debating technique. Anybody can use it. It ought not to be used.

Mr Rugendyke: That was rather harsh.

MS TUCKER (9.03): No, it was not. It was just weak. This is the man who has worked with the Liberal government that produced a community consultation protocol which Tina Van Raay took charge of for a number of years and did a very good job with. There is a commitment from your government to involving the community in consultation on a number of issues. We have supported that consultation. It clearly spells out the processes. As a government, you have failed to follow those processes.

For that reason, your claims that I want to get something off my chest after three years or six years needs to be understood. If members of this place say they have consulted the community, it should be clearly understood that we represent a particular constituency. When other members have raised these sorts of accusations or challenges in this place before, I have explained that we talk to a lot of people in the community to inform our policies. That is the way we should inform policy. Public policy can be improved by talking to people who have experience of the reality of laws.

Mr Moore, if you look through *Hansard*, you will see that I have explained that. I remember that when we did the fast food bill you were outraged. You said, "Whom did you consult?" I made the point then that we talked to the fast food people and they did not like it. The Greens have never said that we do what everyone in the community says. As an elected representative in this place, we have a particular constituency that we will

listen to more. That is what we are elected to do. We also take an interest in the broader community, so that we see all sides. It is about participatory democracy—

Mr Corbell: I take a point of order, Mr Speaker. I am loath to interrupt Ms Tucker, but we are debating amendments to the Environment Protection Bill at the detail stage.

MR SPEAKER: Thank you, Mr Corbell, I have been waiting for about five minutes for a point of order on that very point. I uphold the point of order.

MR MOORE (Minister for Health, Housing and Community Services) (9.05): These amendments were circulated only a couple of days ago. I understand that they could not be circulated earlier because they had not come back from parliamentary counsel. So much for your consultation.

MR CORBELL (9.06): The Labor Party will be supporting the proposed new clause 7B, which provides for best practice in relation to environmental improvement plans. We think this is a worthy objective and worth including in the legislation.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.06): There are a number of amendments that could reasonably go through because they simply add nothing to the bill. In some ways they are fairy floss. This is one of them. This is an attempt to make the EPA prepare environmental protection policies in accordance with relevant best practice. Of course we do that.

In some ways this amendment is a slight on the staff of the authority. To assume that we would do less than follow relevant best practice is very unfair, given the work that has been done on environmental issues over the last six years. I am assuming that Ms Tucker will call for a vote on all her amendments. Rather than put the house through the tedium of a vote on this one, I am willing to let it go through.

Proposed new clause 7B agreed to.

Proposed new clauses 7C to 7F.

MS TUCKER (9.07): I move amendment No 5 circulated in my name, which inserts new clauses 7C to 7F *[see schedule 8 at page 3914]*.

These new clauses make some minor procedural changes to the public consultation process contained in section 25 and make a consequential amendment to section 27. The key change is to count the period of public consultation from when the notice is placed in the newspaper, not from when the notice is gazetted.

Notices in the *Gazette* and in the newspaper usually occur on different days, and most members of the public are more likely to see the notice in the newspaper. While there is obviously a growing use of the Internet and the *Gazette* will be coming out in electronic form, we should not disadvantage the majority of people who still rely on newspapers by inadvertently reducing the time they have to put in comments.

MR CORBELL (9.08): The Labor Party will not be supporting this amendment. We believe it is unnecessary. To count the period of time from gazettal is, we believe, the most appropriate approach. The difference between the time that a notice appears in the *Gazette* and the time that a notice appears in the daily newspaper is relatively minor and does not significantly impact on the capacity of people to respond or to make comments in relation to the notification.

Proposed new clauses 7C to 7F negatived.

Proposed new clause 7I.

MS TUCKER (9.09): I move amendment No 8 circulated in my name, which inserts a new clause 7I *[see schedule 8 at page 3914]*.

This amendment inserts new sections in the part of the act dealing with environmental protection agreements. At present the authority can enter into an environmental protection agreement with a person conducting an activity that could cause environmental harm without undertaking any form of public consultation over the agreement.

I think this was a major oversight when the act was first drafted, because the act already includes public consultation over environmental authorisations, which are similar to agreements. The new sections therefore set out a formal process of public consultation over a proposed environmental agreement.

This process mirrors public consultation processes already in the act for environmental protection policies, which appear in section 25, and environmental authorisations, which appear in section 48.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.10): The government will oppose this amendment. The substitution establishes a consultation process similar to that required for EPPs. We think this is further wasteful and meaningless consultation, similar to that which we are trying to eliminate with the amendments to section 41 and section 50. It is sufficient that such agreements being made be notified. In any event, it is difficult to see the role of consultation with third parties in the process of making these agreements, which are between the EPA and the person concerned.

MR CORBELL (9.11): The Labor Party will not be supporting this amendment. Ms Tucker proposes a process of consultation in relation to the preparation of environmental protection agreements. The issue here and in a number of amendments Ms Tucker has proposed relates to oversight versus involvement in the preparation of these agreements. The Labor Party believes it is absolutely appropriate to protect the public interest in relation to environmental agreements and authorisations and that there is the capacity for members of the public to oversight decisions taken by the Environment Protection Authority.

Ms Tucker is proposing to go one step further and not just to provide for oversight but also to require third parties to be involved in the process of determining agreements between the Environment Protection Authority and the relevant industry which may be

conducting an environmentally damaging activity. We do not believe that that is appropriate. We believe the public interest is safeguarded by providing for an oversight once these agreements are made. We do not accept that it is appropriate to engage third parties in the process of determining these agreements.

We will not be supporting Ms Tucker's amendment. We do not believe there is any demonstrated need for it. We will, however, keep this process under review, and if issues come to light to demonstrate that there is a need for third-party involvement, the Labor Party will be prepared to look at that. But there is no demonstrated need for it today.

Proposed new clause 7I negatived.

Proposed new clause 7J.

MS TUCKER (9.13): I move amendment No 9 circulated in my name, which inserts new clause 7J *[see schedule 8 at page 3914]*.

This inserts a requirement for environmental protection agreements to have regard to best practice, which I talked about earlier.

MR CORBELL (9.13): As with the previous amendment relating to best practice, we see no problem with having this aspiration built into the act. The minister suggested some slight on the authority or its staff. That is certainly not the Labor Party's view. The Labor Party believes that the authority and its staff do a very good. But it is still appropriate to set these sorts of aspirational outcomes in the legislation. References to best practice certainly reinforce the intent of the legislature. We see no problem with that.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.14): We will oppose the amendment. It allows an environment protection agreement to provide for terms that further the objectives of the act and relevant best practice, but it does not oblige the terms of the agreement to do so and therefore adds nothing to the provisions. It is not necessary; nor is it useful.

Proposed new clause 7J negatived.

Clause 8.

MS TUCKER (9.15) I move amendment No 11 circulated in my name *[see schedule 8 at page 3914]*.

This amendment amends the government's proposal to allow the minister to declare that some environment protection agreements do not need to be publicly notified. There are two problems with the government's clause. Firstly, the exemption from notification applies both to newspaper advertising and to notification in the *Gazette*. I can understand the minister wanting to reduce the cost of newspaper advertising, but I see no reason why notification in the *Gazette* should be restricted. I am seeking to amend the clause so that it relates only to newspaper advertising.

Secondly, I think the criteria for when notification is not necessary are too broad. The whole point of environmental protection agreements is to minimise environmental harm. If some agreements being made are still causing environmental harm, then the public have a right to know about them. The only agreements that should not have to be notified are those where no environmental harm will be caused. I am therefore moving to delete paragraph (b) from this clause.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.16): We oppose this amendment. It would mean that the existing level of advertising and consultation would virtually be unchanged from the existing provisions. There is no need for an environmental protection agreement if there is no level of environmental harm. There are so few requests for this information that we feel our position is justified in leaving our provision in the bill and not supporting Ms Tucker's amendment.

MR CORBELL (9.17): When the Labor Party first supported the establishment of the Environment Protection Act in 1997, there was a debate about the level of notification required. At that time the Labor Party supported broad notification requirements for agreements and authorisations, including notification in daily newspapers. It is now three or four years since the act was passed. The whole point of the review was to look at both the objectives and principles of the act and whether they were being achieved but also to look at the workability of the legislation.

On balance, the Labor Party is prepared to support the government clause, because on balance it is quite clear that the level of notification which currently takes place does not achieve any significant useful purpose. Hundreds of protection agreements and environmental authorisations have been publicly notified over the past four years. The number of occasions on which these have been sought for examination can be counted on one hand, I understand.

In the interests of making the implementation and the administration of the act more straightforward, we think this is a reasonable reform. We believe that public interest continues to be protected through the provision of the disallowable instrument. That allows the minister to outline the circumstances in which a notification or an agreement does not need to be publicly notified.

That approach will allow the Assembly to keep an eye on exactly what types of agreements the minister is prepared to exempt from the notification requirement, and it is subject to the veto of this place. We think that is a satisfactory arrangement, given that the existing notification requirements advertise many things for what appears to be no immediate purpose.

Amendment negatived.

Clause 8 agreed to.

Proposed new clauses 8A to 8M.

MS TUCKER (9.18): I move amendment 12 circulated in my name, which inserts new clauses 8A to 8M *[see schedule 8 at page 3914]*.

This amendment represents a major change to how environmental authorisations are prepared. At present a person applies for an environmental authorisation. The authorisation is put out for public comment. After comments are received, the authority decides what to do with the application—for example, to refuse it or approve it without various conditions, or to seek further information. Once the decision is finally made, it is publicly notified.

The concern has been raised with me that public input into this process is quite limited as the public have no role in the details of the authorisation that is finally approved. Most authorisations are not simple "approved/not approved" statements but set out a range of conditions that the person must comply with in order to minimise the environmental impact of the activity. People such as the conservation council who monitor environmental authorisations are more interested in having an input into what conditions the authority places on an activity than in just being able to comment on the application itself.

My amendment therefore changes around the process currently described in sections 48 and 49 so that, once an application is received, the authority, if it is not refusing the application or seeking further information, prepares a proposed authorisation. The application and the proposed authorisation are then put out for public comment. Once comments are received, the authority then makes its final decision on the authorisation. The amendments are fairly complicated, but they are designed to keep in place where possible the existing provisions, which are quite convoluted, particularly those in section 49.

MR CORBELL (9.20): The Labor Party will not be supporting these amendments from Ms Tucker. As with an earlier amendment, Ms Tucker is trying to take the step of engaging third parties in the process of what goes into the environmental authorisation. We think that is a step too far. Again, the Labor Party's view is that there is an appropriate level of oversight of the final details of an environmental authorisation, so that people can see what is in the authorisation and can see what the conditions are. If they have concerns about it, there are ways of raising issues directly with the government, the authority or the Assembly.

There is satisfactory recourse where people are unhappy with the conditions of an environmental authorisation or with the approach of either the party to the environmental authorisation or the Environment Protection Authority, but no-one has ever raised with me a concern about what is in an environmental authorisation. Ms Tucker is proposing something when there is no problem to remedy.

Public interest is protected through oversight, but it not appropriate, in our view, to change the process in the way Ms Tucker is proposing—by creating an added level of complexity of administration—when there is no immediate problem that needs to be fixed and when the public interest is protected by oversight provisions.

We will not be supporting this amendment. Ms Tucker, in proposing a complex series of processes when no problem has been identified, simply distracts the Environment Protection Authority from the broader range of tasks it has to undertake and ties it up in a very complex process, to no apparent end. In these circumstances, we will not be supporting the amendment.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.22): I am pleased to hear that. You either have the officers in the office assessing or you have them out in the environment protecting. The new clauses Ms Tucker proposes would make wholesale changes to the process for granting environmental authorisations.

The consultation period would be extended to 40 working days for each application, and the EPA would be required to consider the submissions it receives. The changes are not necessary. The current provisions are sufficient. There is generally no interest in these authorisations. There is no need for the extension of a resource intensive process. Valuable resources should be used wisely on the ground. As has been said already, there is appropriate oversight. The government opposes the amendment.

Amendment negatived.

Clause 9 agreed to.

Proposed new clause 9A.

MS TUCKER (9.23): I move my amendment No 14, which inserts a new clause 9A *[see schedule 8 at page 3914]*.

This inserts a requirement for environmental authorisations to have regard to best practice, a matter I talked about earlier.

MR CORBELL (9.24): As with previous amendments inserting the term "best practice", we believe this amendment is appropriate and we will be supporting it.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.24): This amendment can go through. I do not believe it adds anything to the power in section 51(b) to impose conditions. It is superfluous, but the words are not disagreeable.

Proposed new clause 9A agreed to.

Proposed new clause 9C.

MS TUCKER (9.25): I move amendment No 16 circulated in my name, which inserts a new clause 9C *[see schedule 8 at page 3914]*.

This amendment sets up a new process for public consultation on reviews of environmental authorisations. These reviews normally occur annually or, in some cases, every three years. Currently they are conducted solely by the authority with no public input. The only the way the public would know about a review would be through seeing

the public notice from the authority after the review was completed. This seems inconsistent with other provisions in the act which require new authorisations to be subject to public consultation.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.25): We oppose proposed clause 9C. It would insert yet another consultation process into the act requiring the EPA to conduct public consultation in relation to review of accredited authorisations. This is yet another unnecessary level of bureaucracy when there is absolutely no problem with the existing process.

MR CORBELL (9.26): Consistent with a number of other proposals that Ms Tucker has put forward in her amendments, this amendment again seeks not just to have an oversight process but to have an engagement process for third parties. The approach that Ms Tucker is proposing would allow third parties to be involved in the review of environmental authorisations, which is a review of an agreement between the Environment Protection Authority and a particular industry or operator.

I think it is entirely appropriate for the public to have oversight of what the outcome of that review is and to see exactly what has been agreed between the authority and the particular industry or operator or business, but I do not believe it is appropriate to have a requirement for third parties, people completely outside that process, to be part of the negotiations in reviewing the authorisation.

Again, the public interest is served by oversight, by people being able to see exactly what is in the authorisation and what the result of the review of the authorisation is. But the public interest, I do not believe, is served in any way by simply allowing a third party, an outside party, to be engaged in the review and to provide comment on the review. The Labor Party will not be supporting the amendment.

Proposed new clause 9C negatived.

Clause 10 agreed to.

Clause 11.

MS TUCKER (9.27): I move amendment No 18 circulated in my name *[see schedule 8 at page 3914]*.

This amendment relates to section 76B of the act. Clause 11 of the bill seeks to change the time line for auditors to submit annual reports on audits of contaminated land they have undertaken. The act currently specifies 20 working days. The government wants to change this to 60 days, with the justification that this is the time line in the equivalent New South Wales legislation.

My understanding is that the equivalent New South Wales legislation, the Contaminated Land Management Act 1997, on which this clause is based specifies 60 days whereas the Environment Protection Act uses the words “working days”. I think the right number of working days that is equivalent to 60 normal days is 40 days.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.28): Mr Speaker, the government will oppose the amendment. We believe that an annual return in three months is acceptable. At present it is one month and Ms Tucker seeks to split the difference. We think alignment with New South Wales is reasonable.

MR CORBELL (9.28): Mr Speaker, this is one of those amendments that make me wonder if Ms Tucker has got too much time on her hands. Whether it is 60 normal days or 40 working days is really neither here nor there. The proposal in the bill put forward by Mr Smyth provides for a three-month period, and that seems quite reasonable in terms of providing for audits on contaminated sites. Ms Tucker is arguing for two. I really do not see the different between either, and we will not be supporting the amendment.

Amendment negatived.

Clause 11 agreed to.

Clauses 12 to 15, by leave, taken together and agreed to.

Clause 16.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.29): Mr Speaker, I move amendment No 1 circulated in my name *[see schedule 9 at page 3925]*.

This simple amendment has been moved as a result of a suggestion made in the scrutiny bills committee report No 10. The amendment will not change the powers proposed in the current amending bill of an authorised officer under section 101 by reference to the powers contained in section 100 (2).

The amendment specifically lists the powers of an authorised officer who enters premises under section 96 of the act. The authorised officer may, if satisfied on reasonable grounds that it is necessary to do so because of urgent and serious circumstances, require the occupier or a person on the premises to do any of a number things—namely, answer questions, furnish information, make available to the authorised officer any record or document kept on the premises, and provide reasonable assistance to the authorised officer in relation to the performance of the officer's duties.

Amendment agreed to.

Clause 16, as amended, agreed to.

Proposed new clause 16A.

MS TUCKER (9.31): I move amendment No 19, circulated in my name, which seeks to insert new clause 16A *[see schedule 8 at page 3914]*.

This amendment amends section 127, which allows the authority or a person to apply for an injunctive order from the Supreme Court to stop another person contravening an authorisation or provision of the act.

There has been an ongoing debate in other jurisdictions about the rights of third parties to apply for court orders to achieve environmental outcomes. Environmentalists argue that third parties should have open standing to seek court orders because of the public interest involved. However, some people, generally those within the business sector, believe that this is an unwarranted meddling in the affairs of others and should not be allowed.

The current act allows persons to apply for a court order with leave of the court. Such leave can only be granted if the person can show that they have already requested the authority to take action and that it failed to do so, and that the application is in the public interest. This is still a pretty high bar to get over and is a discouragement for persons to seek court orders.

Given the high costs involved, people are unlikely to seek a court order unless they have good reason to do so. I therefore do not think that the onus should be put on the person to prove a public interest before getting leave of the court to proceed with the application. My amendment therefore reverses the intent of subsection (2) so that persons will automatically be granted leave unless the court is satisfied that the person has not already taken action through the authority or is being frivolous or vexatious.

MR CORBELL (9.32): Mr Speaker, the Labor Party will be supporting this amendment, consistent with our approach that it is important to have the public interest protected in terms of the application of environment protection legislation. When this act was first introduced in 1997 we argued for open standing. We lost on that occasion, we will probably lose tonight, but it is important to argue that any third party has the right to appeal to the court in relation to the application of this act.

The Environment Protection Act is not just about what happens next door, it is not just about what happens across the street from you: it is about what happens in your city, in your area, in the environment in which you live. We think it is a reasonable approach to provide for open standing in those circumstances. It is about protecting the public interest, it is about allowing advocacy organisations or environmental organisations, or indeed any other interested party, to take a matter to court if they believe that there has been some breach of the act or if they want to review certain agreements set in place under the act. So, we think it is worth fighting for. Open standing does protect the public interest and it is important that it is there.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.34): Mr Speaker, the government will be opposing this amendment. This provision is about standing to get the Supreme Court to make an order to stop or prevent contravention of the act. The current test requires the court to refuse leave unless the person has asked the EPA to take action and that the EPA has not provided written confirmation of reasonable action being taken. That is the first step and that is reasonable.

This amendment stands that test on its head—the court must be satisfied that the person has not asked the authority to take action or that the person has asked but has not let reasonable time elapse for the authority to take action. This is inappropriate in an application to the court when either the EPA or the respondent to the order will be represented. The applicant should have to satisfy the court that there is a case for it to

allow them standing. If the applicant's affidavit was silent on the issue of requesting the authority to take action, the court would have to give them standing.

Question put:

> That **Ms Tucker's** amendment No 19 be agreed to.

The Assembly voted—

Ayes, 7		Noes, 10	
Mr Berry	Mr Stanhope	Mrs Burke	Mr Moore
Mr Corbell	Ms Tucker	Mr Cornwell	Mr Osborne
Mr Hargreaves	Mr Wood	Mr Hird	Mr Rugendyke
Mr Quinlan		Mr Humphries	Mr Smyth
		Mr Kaine	Mr Stefaniak

Question so resolved in the negative.

Proposed new clause 16 A negatived.

Clause 17 agreed to.

Clause 18.

MS TUCKER (9.39): I ask for leave to move amendments Nos 21 and 22, circulated in my name, together.

Leave granted.

MS TUCKER: I move amendments Nos 21 and 22 *[see schedule 8 at page 3914]*.

Amendment 21 changes the timing of the next review of this act. The government has proposed that another review be held in two years time. I think this is too soon and may be of limited benefit in view of the work involved. The review can be left for a couple more years and we therefore seek to change the date.

MR CORBELL (9.39): Mr Speaker, the Labor Party will be supporting the amendments. The period of time proposed by Ms Tucker for the next review of the act seems reasonable and the time currently proposed by the government seems to be too short, considering the general operation of the act.

MR MOORE (Minister for Health, Housing and Community Services) (9.40): Mr Speaker, I can see through this. They think they are going to be in government and they do not want to conduct the review. Ms Tucker thinks she is going to be part of it and it is going to expose everything. You are going to have a different attitude. She will be the minister for the environment, urban services and so forth—I will give her my congratulations when I come to lobby her—and she does not want to do the review then. I have formed the view as a result of consultation with the community that we should

carry out this review in the next couple of years, at the appropriate time. I say, "Keep going, keep the pressure on them."

Amendments negatived.

Clause 18 agreed to.

Clause 19 agreed to.

Proposed new clause 19A.

MS TUCKER (9.41): I move amendment No 23 *[see schedule 8 at page 3914]*.

Clause 20 of the bill adds the "commercial sterilisation of clinical waste" to the schedule of prescribed activities requiring an environmental authorisation. This is fine but I am worried by the word "commercial". It implies that sterilisation conducted by a government agency that is not operated on a commercial basis would not need an authorisation. I think that sterilisation of clinical waste should be authorised, no matter who is doing it, so my amendment removes the word "commercial".

Sterilisation of clinical waste is not a household activity. These types of waste are quite dangerous and need careful management and control. For consistency, my amendment 23 also seeks to remove the word "commercial" from the definition of "waste incineration activities".

MR CORBELL (9.42): My party will be supporting this amendment and I foreshadow that we will also be supporting the amendment that deals with the incineration of commercial sterilised waste. It is important to identify that these practices generally, whether or not conducted commercially, should be subject to environmental authorisation, and that is the reason for our support.

Proposed new clause 19A agreed to.

Clause 20.

MS TUCKER (9.43): I move amendment No 24 *[see schedule 8 at page 3914]*.

Amendment agreed to.

Clause 20, as amended, agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Bill, as amended, agreed to.

Protection Orders Bill 2001
Detail Stage

Bill as a whole.

Debate resumed.

MR SPEAKER: Ms Tucker, your amendment is before the chair at the moment. If you have

reached an agreement with the minister, you may like to withdraw your amendment.

MS TUCKER (9.44): Mr Speaker, I seek leave to withdraw my revised amendment No 1.

Leave granted.

Amendment, by leave, withdrawn.

MR STEFANIAK (Minister for Education and Attorney-General) (9.45): I move the amendment on the A4 sheet *[see schedule 7 at page 3913]*.

I thank members for giving me the opportunity to consult and to draw up the amendment. I thank the Greens for coming up with what I think is a reasonable compromise.

Amendment agreed to.

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

Bill, as amended, agreed to.

Protection Orders (Consequential Amendments) Bill 2001

Debate resumed.

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) (9.46): I ask for leave to move amendments Nos 1 to 6, circulated in my name, together.

Leave granted.

MR STEFANIAK: I move amendments Nos 1 to 6 *[see schedule 10 at page 3926]*.

I seek leave to have my speaking notes on the amendments incorporated in *Hansard*.

Leave granted.

The speaking notes read as follows:

The *Children and Young People Act*, as it currently stands, allows the Children's Court to make either a domestic violence order or a restraining order where there is an application for a care and protection order.

It has become apparent, however, that this provision needs some more substantive amendment than the minor amendments made by the Protection Orders (Consequential Amendments) Bill as:

there is no guidance for the court about relevant considerations for making a domestic violence order or a restraining order; and

it seems that the court may only make an interim domestic violence order or interim restraining order, rather than final orders, but this is not clear.

Government Amendment 1 is a technical amendment and it provides for the specified divisions of the *Children and Young People Act 1999* in accordance with current drafting practice.

Government Amendment 2 substitutes new amendments 1.13A to 1.15A. Amendments 1.13A and 1.15A are renumbering provisions and amendments 1.14 and 1.14A provide definitions in support of the substantive amendment in amendment 1.15.

Amendment 1.15 inserts new sections 205 to 205C. These provisions clarify the process by which a protection order may be made on an application for a care and protection order under the *Children and Young People Act 1999.*

Current section 205 of the Act provides simply that the Children's Court may make a domestic violence order or a restraining order on an application for a care and protection order. It is not clear whether the Children's Court would need to be satisfied that an order could be made under the *Domestic Violence Act 1986* or part 10 of the *Magistrates Court Act 1930.* New sections 205 and 205A clarify the current provision and explicitly state that the grounds for making an interim protection order or a final protection order. These grounds mirror the grounds in the Protection Orders Bill 2001.

New section 205B makes it clear that the Children's Court may only make a protection order under the *Children and Young People Act 1999* where there is an existing care and protection application under that Act. Where there is no care and protection application, then an application for a protection order could be made under the Protection Orders Bill 2001.

New section 205C provides an explicit link back to the Protection Orders Bill 2001. Once a protection order is made under the *Children and Young People Act 1999*, it has the same effect as an order made under the Protection Orders Bill, and may be enforced accordingly.

Government Amendment 3 is a technical amendment and it provides for the specified divisions of the *Children and Young People Act 1999* to be renumbered in accordance with current drafting practice.

Government Amendment 4 inserts a new definition of *final protection order* and substitutes a new definition of interim orderto support the provisions inserted by Government Amendment 2.

Government Amendment 5 inserts a new definition of *interim protection order* to also support the provisions inserted by Government Amendment 2.

Government Amendment 6 is an amendment to the Crimes Act *1900* and it provides for the renumbering of Part 17 of that Act. There are currently two sections 578 and the second section 578 is renumbered by this amendment as section 579. The amendment also corrects a cross reference to the definition of domestic violence offence.

Amendments agreed to.

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

Bill, as amended, agreed to.

Long Service Leave (Cleaning, Building and Property Services) Amendment Bill 2001

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

That this bill be agreed to in principle.

MR BERRY (9.47): Mr Speaker, some time ago I introduced the Long Service Leave (Cleaning, Building and Property Services) Bill 1999 to address a problem which had developed in relation to access to long service leave by workers in the cleaning industry. It was reported to me that because of changes in the way cleaning businesses operated, it was unlikely that many cleaners would ever get access to long service leave. In fact, I was told that, because of the changing nature of employment, a worker who had been working in the industry for 25 years had never had access to accrued long service leave.

Members in this Assembly generously supported the moves to put in place a centrally funded system, in line with what has been in existence for about 20 years in the construction industry. The model was similar to the construction industry model, except that the conditions were slightly less favourable. The construction industry enjoys conditions, at least in terms of accrual, similar to those in the public sector in the ACT. The accrual rates for the cleaning industry were modelled on the rates that apply generally in the ACT.

At the time it was decided, after consultation with employers, that a levy of, I think, 2 per cent would be applied. A board was set up and reports to me suggested that some refinements had to occur to deal with the nuances of the industry and the way that employees worked, which was considered to be a little different to that which applied in the construction industry. The need for refinement was always expected, though this could not have been anticipated when the bill was introduced.

I know that the government has been critical of Labor in that they say they had to fix up the legislation. But I recall that although the bill was before the house for something like 18 months, no amendments came forward from the government during the time. The members of the board, who are practised in dealing with these sorts of funds and who have to manage this scheme, were able to come up with a range of amendments, which Labor will be supporting. In addition, Mr Speaker, I will be moving an amendment, which has been circulated, for the inclusion of new section 3BA.

Mr Speaker, the amendment which I will be moving seeks to apply to this legislation what has been described as the 80 per cent rule. This rule is designed to head off, if you like, attempts by employers to escape their obligations to their employees.

Let me go back to the beginning. One of the reasons for supporting this central fund was to ensure that, at least so far as long service leave was concerned, employers would not be able to trade on conditions to adjust their quotation rates for jobs around the town. In other words, they would not be able to manipulate their employment practices to avoid paying long service leave and get an advantage over other employers. That was a fundamental point raised in the discussions which I had with employers.

I think it is important to maintain the faith with employers about that level playing field. It is important that we do not end up with a Dutch auction of workers' conditions by employers trying to find a lower price for contracts for jobs around this city. The end result, of course, is that the ones who lose out badly will be the employees. It is well known that cleaners are lowly paid, hard-working employees who work the worst hours. When we go home from here tonight or possibly early in the morning thinking that we have worked hard, we should realise that this is the time when many cleaners start work. They perform hard work which most people would find unbearable.

The 80 per cent rule is similar to the rule set out by the Parliamentary Counsel's Office in the debate we had yesterday or the day before—time travels so fast that these things blur a little—on workers compensation. I will be moving an amendment at the committee stage. This provision has been remodelled and we propose to amend the legislation by inserting a new section.

This evening I heard about a disturbing report on WIN television—I did not see it myself—involving a cleaning company that does work for the ACT government and which was the subject of an answer to a question given by Mr Moore. The report, as I understand it, went to the cleaning company putting workers on individual contracts, thereby avoiding their obligation to pay workers compensation, the long service leave levy, sick leave, holidays and superannuation.

An employer can come out and say, "Well, I pay over the award in terms of the rate of pay." But employers do not want to pay employees more; they want their employees to cost them less. They can then get involved in the bazaar, if you like, or the auction for jobs in the territory at lower prices because they have squeezed workers' wages and conditions. The 80 per cent rule should stop that as it would relate to any employee, so defined, who acts as a so-called contractor. New section 3BA states:

> (1) This section applies to the engagement of an individual to carry out cleaning work by a person (*the employer)* if—

a) the individual has been engaged by the employer under a contract for services to work for the employer; and
b) 80% or more of the individual's income while working under the contract is earned under the contract; and
c) the individual personally does part or all of the work.

(2) For this Act, the individual is taken to be an ***employee*** employed by the employer.

Mr Speaker, that is in addition to the definition in proposed section 3B of who is an employee; and, of course, an employer is defined in proposed section 3A and cleaning work and the contract cleaning industry is described in proposed section 3.

Mr Speaker, I think these amendments will provide a catch-all for those people who fall through the cracks as a result of individual contracts. Individual contracts are a cruel tool when they are used for low-paid workers. I think the move by Endoxos to improve its trading position by moving to individual contracts was rather cruel.

Somebody said to me at one point, "Well, what do the workers think? They might like it." I cannot imagine a worker liking a proposition where they have got to buy their own workers compensation insurance, because it will cost them more—more than they can afford—if they want the same benefits. I cannot imagine a worker liking the prospect of paying for their own annual leave and sick leave. I cannot imagine a worker liking the prospect of paying their long service leave levy, which incidentally they cannot pay into this system.

The minister said to me, "Well, that might be legal." So what if it is legal—it is wrong. The law needs to be changed to make it illegal if they try to escape these conditions. That is why we have developed a rather sophisticated industrial relations scheme over many years in this country. Probably people on the hill like Peter Reith and John Howard worked hard to try to undo all of that scheme so that they could weaken the position of workers. The attempt by this cleaning contractor to escape his obligation to provide these benefits is an example of the responsibility that we, as elected legislators, have to defend ordinary working people.

Mr Speaker, I do not need to say any more about the issue. I think I have just about touched on all the issues which people would be concerned about. I say again that this place supported the Long Service Leave (Cleaning, Building and Property Services) Bill to make sure that there was a level playing field for all cleaning workers. We supported this bill because we thought it was fair. We saw that workers in that industry were being exploited and we wanted to make it better for them. It appears that an employer is trying to wriggle out. I think this 80 per cent rule will fix the problem. Mr Speaker, that is the aim of the amendment that I will move at the appropriate point.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (9.59), in reply: Mr Berry finishes by saying he "thinks". We are here tonight because Mr Berry thought and Mr Berry got it wrong. Have no doubt that we are here tonight to fix the mistakes that we warned would appear. We were ignored and here we are again fixing up another bill in the litany of hasty bills that Labor has brought forward to fix mistakes that they think exist but cannot quantify. We have had to come back to fix the bad law that Labor and the Assembly have passed.

Mr Deputy Speaker, this bill fixes the Long Service Leave (Cleaning, Building and Property Services) Act 1999 so that it can actually work. In December 1999 the Assembly passed a private members bill which sought to establish a portable long service leave scheme for employees in the contract cleaning industry. The government has always maintained its support for the intent of the legislation. No worker should be denied an entitlement they are eligible for. Furthermore, if employers are not meeting their obligations, we want to know about it so that remedies available in the current legislation can be enforced.

During the debate on the original legislation the government voiced concerns about the appropriateness of the bill to actually do what was intended. In August 2000, this concern was reiterated by Mr Robert Yeomans, the chairperson of the board established under the act. Mr Yeomans wrote and advised me that in the board's opinion the act needed substantial changes to enable it to work as intended. It has been nigh impossible for the board to fulfil its legal obligations as determined under the current act. I would like to impress upon members that these amendments do not change the intention of the act, which was not in dispute at the time of the debate. They are necessary to make it work.

It is important for members to note that the Long Service Leave (Building and Construction Industry) Act was used as the basis for the drafting of the original act. Unfortunately, this cut and paste exercise, this hasty approach, failed to take account of differences between the cleaning industry and the construction industry, and this has been the cause of most of the problems that these amendments are designed to fix. The bill aligns the operations of the scheme with the nature and circumstances of the contract cleaning industry.

Mr Deputy Speaker, my amendments to the bill address the following main problems: how the coverage of the act is defined; the method used to measure service in the contract cleaning industry; and the method used to measure rates of pay and calculate employees' long service leave pay. Coverage under the act is currently determined by the definition found in the Cleaning (Building and Property Services) ACT Award 1998, which is a federal award. This leaves the ACT government in a difficult position if the federal award is changed.

The act also unintentionally covers a plethora of industries as a result of using the federal award as a means of defining the acts coverage. The amendments solve this problem by replacing the direct link to the award with a stand-alone definition. The definition will mirror the award definition of "cleaning work" but will specifically focus upon the contract cleaning industry.

Mr Deputy Speaker, the current methods used by the act to measure rates of pay and calculate long service leave have been copied from the construction industry. They are modelled on the construction industry's week/day work in daylight hours and do not recognise the variety of employment circumstances in the cleaning industry. This disadvantages those people who are meant to be helped by the act.

The cleaning industry operates at any time in a 24-hour day over a seven-day week. Unlike the construction industry, there is no standard full-time work day and corresponding schedule of pay. Remuneration for unusual times of work and hours of work is integral to the contract cleaning industry.

Mr Deputy Speaker, the amendments ensure that cleaners will receive long service leave payments that match their work history. The recording of cleaners' employment periods also ensures that all cleaners receive equal treatment, irrespective of how many or how few hours they work.

The amendments are to apply retrospectively, effective from the date of commencement of the current act. The bill will not be detrimental to any benefits received, nor will the bill penalise any breach of the amended act that took place before the introduction of the amendments. Mr Deputy Speaker, I encourage members to support the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

MRS BURKE: Mr Deputy Speaker, I seek leave to make a statement.

Leave granted.

MRS BURKE: Mr Deputy Speaker, standing order 156 sets out the requirements in relation to conflicts of interest. I would like the Assembly to know that I am closely related to someone who has a business of this nature. However, I propose to participate in this debate and vote on questions.

Detail stage

Bill, by leave, taken as a whole.

MR BERRY (10.05): Mr Deputy Speaker, I formally move amendment No 1 which has been circulated in my name *[see schedule 11 at page 3930]*.

MR DEPUTY SPEAKER: You have spoken to it, I understand.

MR BERRY: I have and I do not need to speak to the amendment again.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.05): Mr Deputy Speaker, I would like to speak to the amendment. Again, we are seeing an example of something being done in haste. We first saw this amendment about an hour or hour and a half ago. In the first place, we are here to fix up an act which was passed in haste. That is why it is flawed to such an extent that it does not work. I think people should be understandably nervous about Mr Berry's last minute specials like this because we are always having to clean up his mess.

I think the point here, though, is that after a lengthy consultation period and a process that has been worked through with the support from the unions, the employers and members of the board, it is unreasonable that such an amendment should be given to us out of the blue. If Mr Berry's argument is that firms are forcing staff to be contractors, and that is bad, then that should not happen. But if people choose to become contractors, that is legal; it is within the law. It is a staff member's choice; they cannot be forced.

Mr Deputy Speaker, as soon as somebody is working in their own company, they are entitled to a host of new benefits such as tax benefits and contracting opportunities that are much wider than would be available to them if they were in an employer/employee relationship or contract. Anyway, Mr Deputy Speaker, what is wrong with the current definition? Mr Berry does not say there is anything wrong. This suggests that there are already other problems within the act. But as soon as somebody becomes a company, that company has many obligations. If that company then provides cleaning services, it would have to register employees and pay long service leave entitlements.

Mr Deputy Speaker, the 80:20 rule is proving very hard for the Tax Office to approve and administer, as the recent trauma for couriers has shown. The government will be opposing this amendment.

MR BERRY (10.07): Mr Deputy Speaker, the first furphy here is that this has got something to do with the taxation department. It has got nothing at all—

Mr Humphries: Yes, it does.

MR BERRY: Mr Humphries, our Treasurer, just interjected, "Yes, it has." Here we have a Treasurer interjecting and saying that an amendment which is designed to get people involved in long service leave has something to do with Australia's tax laws. Rubbish, and you know it. This is specifically designed to ensure that employers contribute to the central scheme so that the playing field is level. It clarifies the position for those employers who want out. It is nothing more than that and some employers think they can escape.

Mr Smyth just described the benefits of entering into arrangements as individual contractors. Does anybody know of an employer who would make sure that their employees could get more out of it by becoming individual contractors? Not me. Would employers do this so that they could become poorer and their employees could become wealthier? Come on—get off the grass.

This evening the media reported that an employer had declared he was going to do something about the high costs, undisclosed at that time, of workers compensation. We find out that, of course, some time ago he had forced all of his workforce onto individual contracts.

Mr Smyth: It was an assertion.

Mr Humphries: It was an assertion; it isn't true.

Mr Smyth: It was asserted. There is much on the media that isn't true.

MR BERRY: They are on individual contracts, aren't they?

Mr Humphries: But they weren't forced there.

MR BERRY: Oh, okay, they are not forced. This is the old Liberal claim of "not forced". "Here is your job. You can have an individual contract. If you don't take the individual contract you can go and work somewhere else." So what do they say?

Mr Humphries: There is no evidence of that whatsoever, Wayne.

MR BERRY: No, of course there is no evidence of it. There is no evidence amongst the people who have got the jobs, because if there were evidence of it they would not be there. This is just claptrap. I have heard so many times that people love to be on Australian workplace agreements, secret agreements, and they really volunteer to get on them. They go into the boss' office and he says, "Here's an Australian workplace agreement, mate. You can take it or leave it." All of a sudden the worker says, "Well, I need the job." He does not object because if he does he is out the door. What employer is going to say, "These secret agreements have been objected to by everybody around the place"? They are a means to cut the conditions, wages and costs of workers. Everybody knows that so don't put your head in the sand.

Let us assume for a moment that we can cop the fact that people have individual contracts. I should stop for a moment and make the point that we should not confuse individual contracts for cleaning workers with individual contracts for high-flying executives. Cleaning workers never have trouble getting a garage big enough for their BMWs or their flash four-wheel drives and they never need to pay a wharfage fee for their fancy cruisers. So, it is just a joke to draw comparison between high-flying bureaucrats and executives on individual contracts and cleaning workers on individual contracts. But that is what the people opposite attempt to do. Individual contracts for low paid workers are bad news and everybody knows it.

As I was saying, let us for a minute assume that individual contracts are okay. But that is not the point. The point here is that we want to keep faith with the employers who want a level playing field. They do not want other employers avoiding their responsibilities for wages and working conditions, and being able to quote lower than they can. If this is allowed to happen, in the end all employers will be acting in this way and, of course, the losers will be the low-paid late night workers who work in this building after we are home, tucked in bed.

So, Mr Deputy Speaker, enough of this nonsense about the interpretation of the definitions of employers and employees in proposed sections 3A and 3B of the bill. Mr Smyth said that I have not said what is wrong with them? I will say what is wrong. They are inadequate for this situation, and that is why you need this 80 per cent rule.

Question put:

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

The Assembly voted—

Ayes, 8		Noes, 9	
Mr Berry	Mr Quinlan	Mrs Burke	Mr Moore
Mr Corbell	Mr Stanhope	Mr Cornwell	Mr Rugendyke
Mr Hargreaves	Ms Tucker	Mr Hird	Mr Smyth
Mr Osborne	Mr Wood	Mr Humphries	Mr Stefaniak
		Mr Kaine	

Question so resolved in the negative.

Amendment negatived.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.16): Mr Deputy Speaker, I ask for leave to move amendments Nos 1 and 2, circulated in my name, together.

Leave granted.

MR SMYTH: I move amendments Nos 1 and 2 *[see schedule 12 at page 3931]*.

I have already spoken to these amendments.

MR BERRY (10.16): Mr Deputy Speaker, Labor will be supporting these amendments. Although we will not be too critical of the minister for patching up the mistakes in his legislation, we will draw attention—

Mr Humphries: At least it happened before the legislation was passed.

MR BERRY: We are generous types—not as mean spirited as some people in this house who would deny individual contractors access to long service leave.

Mr Deputy Speaker, I draw attention to the following description of this weighty piece of legislation in the explanatory memorandum to the bill:

> When drafting the amendments, Parliamentary Counsel modernised the language and phrasing of sections, consistent with contemporary ACT Government drafting standards.

So this huge bill that was introduced to amend the legislation is mostly made up of changes resulting from machinery drafting instructions.

In any event, we welcome the bill. We welcome the efforts of the minister in putting it forward and for at last, to some degree at least, except for 70 cleaners, supporting access to long service leave conditions for these workers.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.18): Mr Deputy Speaker, I make the point that if you put an amending bill out early, and you go out and consult property and get people to glance over it and help you improve it, of course you can bring amendments to this place before the legislation is passed, instead of having to clean up legislation after it has been dealt with in haste, as Labor does so often.

Amendments agreed to.

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

Bill, as amended, agreed to.

Suspension of standing order 76

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

> That standing order 76 be suspended for the remainder of this sitting.

Building and Construction Industry Training Levy Amendment Bill 2001

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

> That this bill be agreed to in principle.

MR BERRY (10.20): Labor will be supporting this bill. Before the government gets up and protests that they are cleaning up the mess that Labor made, they should just remember that this is a photocopy of the legislation they refused to bring forward.

MR MOORE (Minister for Health, Housing and Community Services) (10.20): The government appreciates the support of members.

MR STEFANIAK (Minister for Education and Attorney-General) (10.21), in reply: I am glad Mr Moore is supporting us. You can never be too sure, because he has 39 things he can disagree with us on. I am pleased he supports this bill.

Mr Berry, you probably should have picked that in your initial 1996 draft, but you did not. Thanks for supporting the bill. It closes one loophole and raises an extra $179,000 for training, which is good.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Road Transport (Public Passenger Services) Amendment Bill 2001

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

> That this bill be agreed to in principle.

MR HARGREAVES (10.22): The opposition will be supporting this bill and the amendments the minister will be bringing forward.

Mr Moore earlier this evening talked about something that Ms Tucker was doing. Amendments were flying backwards and forwards like frisbees. Mr Moore talked about very late amendments being problematic. He had a point, as usual. A minute ago, the Minister for Urban Services said, "This is what you get." With an outstretched finger, he lectured Mr Berry. He said, "When we put the amendment bill out early, that was good for consultation." For the record, we have known about the bill and have been looking into it for some time. I congratulate the minister and his office on that.

However, the amendments were received very early today. Had it not been for the cheat sheet provided by Assembly staff, I would not have known that any amendments were coming forward. I had to request them. I received them at 7.55 tonight. They were circulated around the chamber at about a quarter past nine.

Mr Humphries: 2½ hours is heaps of time, tons of time.

MR HARGREAVES: Tons of time, says the Chief Minister. Come November, he is going to have tons of time to work out his election campaign for the Senate.

Mr Humphries: So you have said.

MR HARGREAVES: It is okay, Senator. You can relax. If we are going to preach about it, let us get our act straight. This bill introduces for the first time a process for taxi service accreditation. It establishes powers for the introduction and the implementation of the process for taxi services accreditation. It also introduces safety standards, which have been non-existent to date. That is going to be the singular most important thing about accreditation. We now have standards. If people want to play in the taxi industry, these are the standards they will have to achieve.

The regulations will set standards relating to pick-up times in peak periods, something long overdue. Accreditation will enhance the current level of driver, passenger and community safety and will bring the ACT into line with other states.

This bill clearly defines the role of the network and the driver and protects the interests of the customer. The regulations will ensure that taxis are fitted with safety cameras and equipment capable of producing video recordings. There has been confusion among drivers concerning cameras. This bill should clarify things for them. I welcome that.

This is not totally connected, but the government is pursuing this bill before the competition commissioner has brought forward his report on whether it is anti-competitive behaviour to insist that wheelchair accessible taxis go to a particular

network. Labor is not opposed to a number of networks. That is a commercial decision. I do not have a problem with that. We do have a problem about saying you are going to do that to force competition and then removing competition for the operators.

The thrust of this bill is about accreditation, but in the interests of having a complete package it would have been preferable to have addressed the whole lot. It would have been nice. Nonetheless, Labor supports this initiative. It is a good initiative. We will also be supporting the amendments the minister is bringing forward. I will not be speaking to those amendments.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.25), in reply: I am grateful for the support of the Assembly. This bill is a good initiative. The several minor amendments to the bill follow consultation with MLAs, industry and the TWU. The amendments clarify that it is the taxi network rather than the taxi booking service that must be accredited and that a booking service may be operated by or for an accredited taxi network.

The main tenet of the bus legislation is repeated here for taxis. Both are public passenger services regulated by government, and the government has a duty to ensure that the best possible regulatory environment is provided for in the taxi industry. The best possible regulatory environment will ensure safety for drivers and the public, consumer protection, reliable services and high service standards. I believe the legislation provides such a platform, and I commend it to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (10.27): Mr Speaker, I ask for leave to move amendments 1 to 8, circulated in my name, together.

Leave granted.

MR SMYTH: I move amendments 1 to 8 circulated in my name together *[see schedule 13 at page 3934]*.

Amendments agreed to.

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

Bill, as amended, agreed to.

Financial Management Amendment Bill 2001 (No 3)

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

> That this bill be agreed to in principle.

MR QUINLAN (10.28): The opposition will be supporting this bill. It has been described in the explanatory memorandum as being largely technical. It changes a number of the provisions within the Financial Management Act. One shudders when one sees terms like "investment" used in those changes at this time, particularly as authorities are involved. We know that a well-known authority is making a substantial investment at the moment, but I think it is all right.

There is some classification of public money, which I think is just a matter of format. There are adjustments to accommodate GST changes. The major adjustment is to take the prescriptiveness in relation to financial statements out of the act and put that into the guidelines, because over recent times Australian accounting standards have become quite fluid. As a member of the accounting profession, I am a little disappointed in the way accounting standards have changed in a piecemeal manner. Pick up financial statements that fully comply with the standards and try to look up how much the company spent on wages or a major expense item, and it is not even shown. If it is shown, it is shown somewhere in the notes attached to the statement of financial performance, as opposed to being part of the good old profit and loss statement. Put me down as a Luddite when it comes to some of the accounting standards of today.

Mr Humphries: You are a conservative.

MR QUINLAN: Yes, put me down as a small "c" conservative. I appreciate the need to move the prescriptiveness of accounting reports to the guidelines, even though this government quite happily uses American standards when it suits in order to bring in varying accounting standards as between past years like 1995-96 and today.

Mr Humphries: The Auditor has to approve these things. The Auditor has to decide.

MR QUINLAN: Okay, that is fine. I am just making the point that a change in the use of accounting standards can make a significant difference to a bottom line, with no particular improvement in the financial position. I do not think it is mentioned in the explanatory memorandum but probably should have been—I guess you could put it down to slipping one in—that the period in which the administration has to produce financial statements has been expanded from 30 days to 45 days. I am personally prepared to let that go. We have already made some arrangements with the government on cutting reporting down to quarterly reporting and making sure it is open, meaningful reporting for the first time. A lot of financial statements that have gone through this place over the last 3½ years have been absolutely meaningless.

With my heart in my mouth, I am prepared to support this bill. Even the noted section 38 is tinkered with, but I trust that it has now returned to its intended use—for the management of short-term funds—and will no longer be used as a loophole to explain law-breaking as in relation to Bruce Stadium. I trust that this bill improves the operation of the Financial Management Act.

MR HUMPHRIES: (Chief Minister, Minister for Community Affairs and Treasurer) (10.33), in reply: I thank the opposition for its support for this bill. I have a speech I could read out, but in the interests of time I will simply rest in the knowledge that the Financial Management Act has been improved significantly by the passage of this legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Mr David Pegrum

MR SPEAKER: I inform members that Mr David Pegrum, the Clerk Assistant, has finished his six months secondment to the Assembly and will return to the South Australian parliament in two weeks time. That is, fortunately, after the Commonwealth Parliamentary Association meets here. He has been helping enormously in that. On behalf of all members, I thank him for his efforts and wish him well in his future parliamentary career.

Gungahlin Drive extension

MR SMYTH: (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): Mr Corbell asked whether or not I as minister have received any advice from the NCA. I have not. Officers in PALM have received four letters from the NCA in relation to the Gungahlin Drive variation. The first two confirm that the alignment identified in the draft variation is considered to be not inconsistent with the proposed arterial road alignment shown in the route under the National Capital Plan.

The fourth letter gives an officer's opinion that he thought we should await finalisation of the Commonwealth's amendment 41 before gazetting the DVP. Further verbal advice was sought on this from PALM and NCA staff, given that this view had not been expressed before, and the NCA indicated that this approach was a preference only, not mandatory, as there is no legal impediment to gazetting the plan variation before the NCA completes its processes.

The government sought its own advice as well. The standard practice of gazetting changes in law shortly after the Assembly makes them is appropriate. The GSO said that not only can the minister gazette the plan variation but he must, under section 29 (8) of the land act. Therefore, the government will proceed with gazetting the draft variation, which will be done in the normal gazettal timeframe, which is usually about two weeks.

Having considered all of this, the government believes it is appropriate that we clearly affirm the views of the Assembly, as we are indeed required to do. It is also important that, at the end of this very long process, we give the people of Gungahlin certainty about the Assembly decision and that they get a road which will follow a certain route.

I seek leave to present the papers.

Leave granted.

MR SMYTH: I present the following papers:

> Gungahlin Drive Extension—Copies of correspondence relating to Draft Variation No 138 to the Territory Plan—Gungahlin Drive Extension—from the National Capital Authority to the Executive Director, Planning and Land Management, dated 8 May 2001, 9 May 2001, 19 June 2001, and 27 July 2001.

Adjournment

Valedictory

MR MOORE (Minister for Health, Housing and Community Services) (10.37): I move:

> That the Assembly do now adjourn.

Since I came into the Assembly in May 1989, a number of people have been incredibly supportive. I would like to thank them for that support.

I start with my wife, Helen, who is here in the chamber this evening, and my three children, Jason, Brenton and Heidi. Only people who have children growing up can understand the impact that politics has on families. It has both negative and positive impacts, as every job does. In politics the impacts are significantly more intense, because politics is so invasive for families. Their contribution and their support have been absolutely fantastic. From the bottom of my heart, I thank them.

It is a curious thing that my son Jason started school on the very day we launched our campaign for the First Assembly. He will complete his year 12 about the same time as the election in October. So for his whole school life I have been politics and for the whole lives of my other children I have been politics.

I would also like to say a special thank you to my parents-in-law, Eric and Enid Wigley, who live in the next street from me. I have a wonderful picture of Eric Wigley, whom I know Mr Kaine knows very well, at the first election handing out leaflets with a very dear friend of his who came to visit and who, for a very short while, handed out a few leaflets for us as well. He would probably roll in his grave if I named him here. It was Fred Daly. It was very funny. He did that out of his friendship with Eric, who has always provided for me sage advice and tremendous personal support. My wife's family, the Wigley family, as a whole have provided personal and strong support. It has been fantastic having that family support here in Canberra. My own family are spread throughout Australia.

Joan Kellett has been with me in one way or another since I first ran for election. She has run with me a couple of time. Many members know her for her contribution in a range of ways. I would like to thank her for her efforts.

I thank my office staff, past and present. Malcolm Baalman has been an outstanding staffer. There are very good staffers, excellent staffers and outstanding staffers. He is an extraordinary person of fantastic ability. I am sure this Assembly will miss him, Rachel Hill, my media adviser and other staff members.

The departmental liaison officers who have worked in my office have all been incredibly hard workers.

I thank somebody who made politics for me much easier—my very close friend Kate Carnell, whom I consider a wonderful person. I thank my ministerial colleagues and their staff.

To all Assembly support staff—the committee staff, the library staff and all staff who support the Assembly—I say a special thank you. There have been so many times that these staff have saved us from ourselves and have delivered very well.

I also say thank you to the Assembly members I have worked with and sometimes crossed swords with over the last 12 years. I genuinely believe that, with very few exceptions, they were here to deliver the very best for the community as they saw it.

One thing that has been interesting to me has been working with people from the departments that I have had responsibility for. The former CEO of Health and Community Care, David Butt, and the current CEO, Penny Gregory, have been absolutely tremendous. It has been the same with housing, corrections, family services and the agencies that work with me at the Canberra Hospital, Calvary Hospital and Community Care.

I have heard conspiracy theories about public servants being lazy or trying to undermine what is going on. I had those thoughts myself before I became a minister. Having watched just how hard public servants work in the ACT, I am extraordinarily proud to have had the opportunity to work with them and to provide some leadership in their areas. The ACT is extraordinarily well served by the calibre of the public servants we have here, who work tirelessly to support our community. Even as I speak, I see a couple of them walking into the chamber this evening. Thank you for being here at this time.

I thank those who have helped me in my political campaigns. They have been constant sounding boards. When I go off the straight and narrow, they pick up the phone and say, "What do you think you are doing?" People I have had a high level of trust in have offered me that sort of advice.

I express broad thanks to those in the community who have trusted me with their votes. I hope I have served them well over the last few years and have delivered my best possible judgment to the issues that have been before me.

Finally, to each and every member here and to all the candidates at the coming election, I say good luck. Putting your hand up to serve the community in this way is an extraordinarily important contribution to society and to our democracy. Good luck, my colleagues.

Valedictory

MR QUINLAN (10.43): This has been my first Assembly and overall I have enjoyed it. There have been some exciting times. It has been like the curate's egg—good in parts and not so good in others. It has been a learning exercise. In keeping with that, I have decided to be presumptuous enough to make some academic awards. My staff have been working long and hard on these awards—or scholarships, as they might turn out to be.

First, to the Chief Minister, Mr Humphries. I would like to award a bachelor of law. I know he has one, but his debating style is still that of the ANU students debating society. With a second degree in hand, he might remember that he has moved on.

To Mr Stanhope, I offer a scholarship to the Jackie Chan college of self-defence. As a possible future Chief Minister, he is damn well going to need it.

To Mr Smyth, I award a scholarship in journalism, majoring in political speech writing. We have tired of the one you have used for 3½ years.

On my friend Mr Berry I confer a professorship in the school of hard knocks in the university of life. He will be taking the chair of ancient industrial history.

For Mr Hird, the learning exercise will be an extended secondment to the Commonwealth Club. I see it as a win/win situation that is a match made in heaven. They can both learn a lot from each other.

To Ms Tucker, it is an advanced course in assertiveness training. She is the figurehead for a group of zealots. I think she needs to break loose every now and then. This may help.

On my friend on my left, Mr Hargreaves, I confer a degree in physics. I sit next to him both in caucus and in this place and he constantly fidgets. He therefore receives first class honours in Newton's second law of physics.

To Mr Kaine goes a research grant that will permit him to produce the book *Resisting the ageing process*, for quite obvious reasons.

For Mr Corbell, there will be a 12 months residential secondment to the Weston Creek Football Club. Simon is a leader of the future, and we need to round out his development, so he must get pissed twice a week with the mob.

Mr Stefaniak receives a short scholarship to the Canberra school of arts. It is about time we polished up our boofy footballers. So you will see a merging between Simon and Bill.

For Mr Wood, there will be a year in a draughty garret somewhere, with a box of paints and a canvas to bring out the frustrated artist.

For Mr Osborne, there's a course in family planning, with specific accent on cause and effect.

To Mr Moore goes an honorary doctorate in conflict resolution. After today's road to Damascus speech, it should reach the world as soon as is possible.

To Mr Cornwell, I offer six months in the college of slovenly deportment. He looks too neat and he is a bit prissy—well, most of the time—so we need to round him down.

Mr Rugendyke will receive training for the police force entrance exam. We would like to see him rejoin a modern police force and escape the time warp he seems to be in with the force he left.

For Mrs Burke, there will be a scholarship to the school of kickboxing. The pollyanna image will not work for another period. You will get special tuition from Kate Carnell in the squirrel grip, and there will be motivational videos from Maggie Thatcher.

For myself, I am going off on a course of applied plausible interactive response prevarication, on the off-chance that I am re-elected and the ALP is in government. I will need it on the front bench. Prevarication means dissembling and probably making the same speech for 3½ years.

I seriously thank all of the staff here, particularly the staff who have served me—Jeff House, Adrian Kirchner, Steve Ramsden, and Peter Madden, I consider myself lucky to have had those people serve me, particularly with the measly salary allowance I get to pay them.

Valedictory

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (10.49): By the way, this is not my Christmas speech, so Mr Quinlan has the floor to himself tonight on those sorts of matters.

We are all facing election in 51 days. At that election some of us will be retired by the electorate and others will retire under their own steam. In the latter category, of course, falls the minister for health, Michael Moore.

Mr Moore is one of the originals left in this place, one of the class of 1989, elected all that time ago last century. He has been elected four times to this place, each time coming from impossibly long distances behind to fall over the line at the last possible moment.

Despite being the last passenger on board the ship, however, on each occasion he has generally behaved more like the captain than a stowaway. Today, for example, when I arrived late at the joint government meeting, I found him sitting in the leader's seat. That is typical of the career of Michael Moore in many ways.

He has been a protagonist of issues. He has been a catalyst for change. He has been an iconoclast. He has been a tenacious foe over the years. He has been a master parliamentary tactician. He has been a stirrer from first till last.

His departure will leave a yawning gap in this Assembly, because it is difficult to imagine his interest in, and influence on, a large number of areas being replicated by any one person. He has certainly left his mark on the territory's health system. Indeed, at the end of September, he becomes the ACT's longest serving health minister.

His prodigious involvement has extended to areas like education, the electoral system, justice issues, drug policy, the arts and planning. He has specialised in all of those roles in breaking the rules, in turning conventions on their head. On occasion, this has amounted to pushing a square peg into a round hole, but generally—and I hate to admit it—the new rules Michael Moore has made have become (I use this metaphor as my revenge) the new bible in the field in question.

The best example of this was his decision in 1998 to accept a place in the Carnell ministry. That was a unique arrangement, and in many senses it still is a unique arrangement in Australian political experience. He became a full member of cabinet but with the capacity—a capacity often exercised—to step aside on some issues. Such an arrangement could have been a disaster but, curiously, it was not. Much of the success relied on goodwill between the cabinet ministers concerned, particularly between the minister who was stepping aside and the leader.

But, above all, this arrangement worked. Cabinet solidarity did not disintegrate whenever Michael Moore stepped outside the door. His influence and independence did not evaporate whenever he did not. The precedent he set by doing this is a very solid one. I predict that the model he has used in this and the previous government will survive and will be used again—not necessarily immediately, but it will be used again, and not just in this parliament. It may not be used by some parties, but for parties or governments interested in sharing power it is a very useful model indeed.

I will miss Michael Moore. He has been an extraordinary larger-than-life figure, one of the classic colourful characters of the first 12 years of self-government. Despite many fierce battles, he has been a great contributor and a great friend. He has been a man about whom you could say that when he got behind you he was there with you all the way. Vale, Michael Moore.

I might also take this opportunity to thank my very hard-working staff, who have been on a veritable roller-coaster for the last 10½ months but who have risen to the challenge of serving me as Chief Minister with enormous aplomb.

I also want to thank the many public servants who have provided extraordinary service to me and to the ACT government in that same period of time. I look forward to working with all of them again in the future.

Valedictory

MR STANHOPE (Leader of the Opposition) (10.54): On behalf of the Labor Party and on my own behalf, I also wish to acknowledge the contribution of Mr Moore to the Assembly over the last 12 years. I also join with the Chief Minister in wishing each of us who contest the election the best of luck in the contest and those of us who do not return here the best for the future.

Mr Moore is the only one of us to have stated an intention not to contest the election. He is the only one of us we know will not be back, though, as the Chief Minister says, I would not mind betting there may be a couple of others as well. Life is interesting, isn't it?

I think we need to be open and honest about this. It is probably fair to say that the Labor Party and Mr Moore have not had the friendliest of relationships over the last 3½ years. Those of us on this side of the house do not have the opportunity or the capacity to say, as Mr Humphries has, that when you have Mr Moore behind you you know he is there 100 per cent. Mr Moore has never been behind us over the last 3½ that I am aware of. It is not very often that he has even been beside us.

Having said that, I acknowledge the significant impact that Mr Moore has had on politics in the ACT over the last 12 years. It goes without saying. I guess if I am to be honest and open about it—and I will be—some of the fairly intense frustration that Mr Moore has induced in me over the last 3½ years has arisen almost out of a sense of disappointment. I know I will be pilloried by my colleagues for admitting this, but prior to becoming as heavily involved as I did within politics through my preselection and subsequent election, I was quite an admirer of Mr Moore. He was one of the members of this place in its early years that I put on something of a pedestal.

Mr Humphries: Now it comes out.

MR STANHOPE: It does. It is embarrassing almost. It is an irony that I was disappointed by Mr Moore's responses and position in my early days here. The disappointment was greater for having been the admirer I was of Mr Moore in relation to the significant positions and the strength of the positions he took in earlier years on issues quite dear to my heart. I felt frustration and, as I indicated previously, I regret some of the slights and the arrows that I have cast at Mr Moore.

That is by way of background. I do not hesitate to acknowledge the significant contribution of Mr Moore. There is much that he has done and said in the last 3½ years with which I disagree and some of it with which I disagree quite intensely. But I have no difficulty in wishing Mr Moore all the best for the future. I have no hesitation in acknowledging the significant contribution Mr Moore has made to the body politic and to public life in the ACT.

I wish everyone the best for the election. I wish everybody the best for the future. I look forward to the next term, assuming I am returned. I look forward to working again in this place. I would like to thank everybody who makes this parliament function—all of the staff here. I would like also to thank each of my colleagues. The last 3½ years have been tough but enjoyable. I have enjoyed them very much. I have enjoyed our caucus. It has been good fun most of the time. I have enjoyed our caucus meetings, which is not something which historically can be said about the Labor Party. It has been 3½ very good years in caucus.

I thank also all the staff, particularly those on the Labor team. Opposition is not easy. Some of you may know that. Some of you, I hope, will come to know it. Opposition is particularly hard and rugged. We are under-resourced. That is one of the issues I spoke of today. I commend the work and stickability of all the staff of the Labor members.

I also acknowledge all staff in colleagues' offices. There is a close working relationship between our staff and other staff in government offices. We are aware of that, and we appreciate it. The relationships are good and quite strong. I acknowledge the support we receive, particularly in our constituency work, from other members of staff in this place.

Valedictory

MR WOOD (10.59): Mr Speaker, on the very first day of the very first Assembly, I stood up, without leave, and I made a short speech, just to get myself on the record on that first historic day. I was less conversant with standing orders then, although I still claim not to be a great expert in that area. I do not know whether this will be my last speech in this Assembly. Who knows? I am something of a Beazleyite. I get quite pessimistic about elections.

I sat here earlier tonight and did what some political pundits do and in alphabetical order worked out people's chances of re-election. I said, "This person has a 75 per cent chance. This person has a 50 per cent chance." I wrote it all out and was going to read it. The problem was when I got to "W", being a pessimist, I decided I would not read it after all.

It is a wonderful experience to be in this place. Following the debate earlier today, I am not convinced that it is anywhere near as oppositional and as adversarial as some people think. We have our moments of course, and they are probably heavy in our mind, but for the most part this Assembly works well and it works through cooperation. Is that not the case?

Before I sit down, I want to thank people. I thank all those people on committees. I thank David Skinner again, as I did the other day, and my colleagues Harold, Jacqui and Dave who have worked on the health committee with me. I enjoyed that experience.

All the staff who make this place run do a terrific job. I am especially grateful for the little hints I get when I am in the chair. I need those. I particularly want to thank Margaret Watt. You all know Margaret. She has been here a long time, and I think you would all agree that she is the best thing my office has going for it.

Mr Stanhope: Get her to run, Bill.

MR WOOD: That has been said before, but that is another matter. I want to thank my wife, Beverley, who is the artist in the family. It may be that I will have some spare time in the future, but I do not think, Ted, I will be looking for a garret and some brushes.

Valedictory

MR KAINE (11.02): As this Fourth Assembly reaches the last minutes of its life, I would like to record the level of sheer fun and joy I have had in this place over the last 3½ years. It is a wonderful, exhilarating experience to get up every morning, to come to

work and to know that you are working with a team of 16 other dedicated professional people, all working together in the public interest. There is something about that that makes you feel warm and fuzzy.

In many ways we are like a big family. There have been black days when people like Ted, Brendan, Gary or Michael have dashed off to Beijing, Johannesburg or Shangri-la, or wherever they go. You know that while they are away something is going to be missing from the zest of the cut and thrust in this place. But everything returns to normal. They all come home, and we are back having that wonderful time again.

Of course, as in any family, there are one or two who want you to feel they know you are there and they care. Gary and Michael occasionally rattle my chain just to let me they are aware that I am here and that they care. That makes me feel very warm and fuzzy inside. But after a little while you settle down and you revert back to normal. It has been for me a wonderful feeling of family and achievement working with this wonderful team.

There are a few people I would like to acknowledge. Sandy has been a wonderful support to me in more ways than one. I thank Rod and Dougal. I do not think this place would be quite the same if Rod were not here. He has provided loyal service to me, and I hope he continues to do so into the future.

The staff of this place serve us beyond the call of duty constantly. No matter what hour of the night or day you walk in or out of this building, there is the cheerful face of an attendant to greet you or to say goodnight or whatever. We as members of this place would be absolutely lost without the secretariat staff and the committee staff.

There are, however, one or two other people who work in this place who are very much unsung. There are the ladies who beaver away like lilies of the field in the library. Most of us do not even know they are there. Yet they work long and hard for us. I would like to record my thanks to them for the support they have given to me and the rest of us over the last 3½ years.

Having acknowledged all those people, I wish everyone every success at the next election, which is not far away now. Michael, I wish you well in whatever it is you are going to be doing on 21 October. Who knows, we may be sharing adjoining offices.

I am looking forward to yet another election. This is the fifth one for me. Those of us who go back to 1974—you, Mr Speaker, and you, Mr Hird—have been through three or four extra elections that for most people are lost in the mists of time. We have been through a few elections, but I am looking forward to another one. I do not know what the outcome will be. Maybe I will be sitting here again with this big happy family after October; maybe I will not. If I am not here, then I wish those of you who are every success in the future.

Valedictory

MR STEFANIAK (Minister for Education and Attorney-General) (11.06): As someone who, like Mr Wood and Mr Humphries, came into this Assembly in May 1989, so long ago now, I am sad to see my colleague Michael Moore leave. I remember when he came in as part of an interesting collection of people called the Residents Rally.

It was very opportune that today, on his last day, we finally passed the Defamation Bill. I can recall some interesting things being said in the paper when Michael left the Residents Rally. Michael did particularly well out of the then defamation laws. I think, mate, you got the four-wheel drive out of that. I am not quite sure whether that will apply again. You left the Residents Rally and have been an Independent for a bit over 12 years.

Michael and I have not seen eye to eye on a lot of issues. We crossed swords in the First Assembly and have done so occasionally since then. But from the First Assembly, when I worked on committees with Michael, I have always been impressed with his broad depth of intellect, his lateral thinking and his passion for so many issues, some of which I would not agree with him on. I have always admired and respected his passion. I have found him fundamentally a very decent person. Despite our great differences of opinion on some things, I think we had a pretty good working relationship, which certainly continued when he joined the Liberal government as an Independent minister in cabinet.

Michael, might I say to you and to your family that it has been a lot of fun and always interesting working with you. My very best wishes to you for the future, and thank you for what you have done for the Australian Capital Territory and the people of the territory.

Michael's father-in-law, Eric, has a relationship that goes back a long time to before I was born. Eric was at Barton House with my mother before she met my father. That relationship goes back a hell of a long time.

Mr Moore: They talk about you in the pusher, mate.

MR STEFANIAK: I know. I cannot remember that. They are an old Canberra family.

Might I also thank my own family. Without their support, it would be very difficult to do a job such as this. It is especially difficult with young children. You miss your family very much in a job like this, but without their support it would be hard to do the job. I want to acknowledge that.

My own personal staff—Michael, Dinah and Mary—I thank you very much for your support. It is good to see Michael and Dinah here today. Well done, Sergeant. Dinah, good to see you.

I thank the DLOs. There have been a number of educational DLOs. They do a wonderful job. I do not know whether people appreciate the work the DLOs do. They do an excellent job no only for the area they are working with but also for a number of Assembly members who might come to them with problems. I want to thank the educational DLOs I have had. Barbara is the most recent. Of course, I thank John Malouf, who has been with me since I became AG. He does an excellent job.

I thank the departmental staff. I think we are blessed in this territory with so many competent public servants, from CEOs right down the line. I thank those in my department and the various departments I have had responsibility for over the last 3½ years. They serve the territory exceptionally well,. I thank them for that.

To the staff of the Assembly, Mark McRae, the library staff, the committee staff and everyone who works in this building, I reiterate the words other members have said tonight. You go beyond the call of duty. You are always pleasant and always helpful in remarkably quick time. Thank you very much for your assistance.

My very best wishes go to all members. I hope that all of you who are standing for election get back. It is not easy, but my very best wishes to you and good luck for the upcoming election. Thank you very much, Mr Speaker, for your control of the Assembly and the assistance you give in presiding over the Assembly.

Finally, to my government colleagues, my ministerial colleagues and my party colleagues, I say that it has been a pleasure working with you for the last 3½ years. Good luck to all you standing again, and thank you for the privilege of working with you in government for the last 3½ years.

Valedictory
East Timor

MR BERRY (11.11): Mr Wood was boasting about how he was the first person to speak in the Assembly.

Mr Wood: No, not the first.

MR BERRY: Weren't you the first?

Mr Wood: I got a piece on the first day.

MR BERRY: You got a piece on the first day. Tonight I was almost lusting for the opportunity to give the government one last touch-up at the end of this sitting on the Territory Records Bill, and I was denied that chance by Michael Moore. I could have talked about all of those paper trails. I might have even mentioned Bruce Stadium again.

Mr Moore: Or $344 million.

MR BERRY: Or $100 million or whatever. I too would like to thank all of my colleagues for their support and tolerance, which are necessary in the melting pot of politics anywhere but particularly so in the Labor Party, because we also have a contest of ideas which is useful for the development of our damn fine party.

The contest of ideas is also helped by people in this place and the staff that support them, who offer challenges for other politicians in this place to test their mettle. It always gives you a good reason to come to work if you can find somebody who is challenging your ideas, especially if you want to make a mark on behalf of the constituents you represent.

One cannot rise in this place without thanking a whole range of people. I would first of all like to thank all of those people who have supported us in this Assembly. In all of my experience of the people in the secretariat, the attendants, Hansard, the corporate area and the committee staff, I have always had the most committed people working around me. They have always been tolerant of the foibles that one exhibits from time to time and understanding of them—almost too understanding sometimes—except on the rare

occasions when I go for a lunchtime run on a hot day and I keep emptying the water glass. On those occasions the attendants seem to give me a bit of a sideways look about how much water one can drink in this place, but I have enjoyed my association with them.

This term, as usual, I have had the loyal support of Sue Robinson in my office. She is probably the senior staffer in this place. She came here with the First Assembly, and she knows every nook and cranny. She knows what everybody is thinking. She even know what I am thinking, and she reminds me of what I should not be thinking from time to time. She has been the backbone of support in my office. This is true of the staff of many of the people in this place who have been and gone.

Your family give you up for your term in this place, except for a bit of relief when you are at home with the flu or some other sickness. Your family go with you to functions that you might not go to if you had the choice, and they front up to people that they might not front up to if they had the choice, but they are always there.

I want everybody to share a thought for the people of East Timor, who will be facing an election a bit more serious than ours.

Mr Wood: They voted today.

MR BERRY: I am reminded that they voted today. I think it would be appropriate to think for a few moments about the trials and tribulations of the East Timor people, fellows like Horta and other champions of democracy who have fought so hard to get independence for their country.

People in East Timor will be welcoming the opportunity to vote for their new politicians. I suspect the same could not be said for the people who were going to the polls here in 1989. Nevertheless, we should think about the emerging democracy in East Timor. I think it is going to be one of the most interesting chapters of one's lifetime to see that small democracy develop from the shambles that was created by the torture and mayhem that were inflicted on that small country.

Valedictory

MR HIRD (11.16): This being my second term, Mr Speaker, I would like to take my mind back to the year that you, Mr Kaine and I were elected to the first Legislative Assembly in 1974. Michael reminded me of that when he said that his son started school. Well, Mr Kaine and Mr Cornwell, you would remember that my daughter Julie-Anne was born on that day, 28 September 1974. This is my 10th election, and the commitment that my family has made is significant. My commitment to the belief that I can make a contribution to my community has put me in this place on numerous occasions, previously in the advisory body and now in what is called the real parliament.

I wish Michael all the best. Michael, you are not a Captain Smith. If you ask me who Captain Smith is—

Mr Moore: Who is Captain Smith?

MR HIRD: Captain Smith was the captain of the *Titanic*. You are never going down. These 3½ years have been very interesting. I thank all the members of all the committees. On occasions I got away with more than I should have in committee work because I was on so many of them. I remember saying to our friend Mr Kaine, who left me with all these committees as tasks, "What have you done to me?" He replied, "You will be better for it." Now I know what he meant. I am the member for committees.

On a serious note, committee work is the backbone of this place. The committees do a lot of work. They interface with the community and with the various community organisations. That is where the rapport is established. One of the unique features of this place is that we traverse both local and state matters. That is a very worthy new procedure developed by this parliament. One could say that this parliament serves not only the people of Canberra but also serves certain areas in the south-east region of New South Wales.

I would like to thank my opposition equal, Mr Corbell, the opposition whip. It has been a delight to work with him. As a matter of fact, it has been a delight to work with all the staffs and all the members. When we have had difficult times or a family crisis and we needed to bend the rules a bit, or to get something through very quickly, we have been able to achieve our goal. I agree with Mr Wood; I think this place does work in a positive manner when it needs to work.

I would like to thank in particular Rod Power and the staff of the Standing Committee on Planning and Urban Service, and also Minister Smyth. Minister, your departmental people have assisted me in making that job much easier. I would like to thank the Hansard personnel and all those in the building who have assisted us, and in particular Barry, the building manager. Mr Kaine referred to the friendly staff and attendants. They had a problem here one evening when the Chief Minister knocked over a glass of water. When she turned around I made some comment, and she said, "Well, I anointed you." The staff came and cleaned it up, but I was wet for the occasion. That just shows you how they work and how things can happen.

Mr Kaine: Who threw the glass of water?

MR HIRD: Well, I did say that, Mr Kaine. As has been said, I wish you well for the coming election. An election is not easy, as we all know, but give it your best shot. If you believe in what you are doing, go for it. I would like to thank my staff, Dominique, my son Mark, and Tracy. I agree with the Leader of the Opposition, Jon, that we do not have enough resources. I share that view with him, and if he gets into government I will be looking for some better resources.

Mr Quinlan: Come and see us.

MR HIRD: I will be there. I will come down from the Commonwealth Club, Mr Quinlan.

In closing, I would like to thank my family, who have always been with me. They believe that I would have made a lot more money from my calling in private enterprise rather than—

Mr Osborne: As a male model or what?

MR HIRD: Rather than playing politics or trying to outwit dumb footballers. I will leave this place on this occasion with my memories, and if I am not returned I will cherish them for the rest of my life. I will rise to the occasion on 20 October, and I wish each and every member in this place the best of luck. I would like to see you here next time around. I am about to sit down. I thank you, Mr Speaker, for your expertise as the presiding officer, but I would like to see the old-timer back again, just to annoy you. Work out who that is, Mr Kaine.

Valedictory

MR CORBELL (11.23) Mr Speaker, I think the past 3½ years for me in this Assembly have been the most challenging of my life, both personally and politically. I want to thank, first and foremost, the electors of Molonglo for giving me the great honour of being able to be a member of this place, and I hope I can earn their endorsement again.

I want also to acknowledge the overwhelming commitment and support of my own family, my partner Nelida, who, like all partners of members in this place, puts up with a lot, especially on nights like this. I also want to acknowledge her particular commitment with the arrival of our first child, Henry, 2½ years ago. I found the challenges of being a new father and being a relatively new member extraordinary at times; nevertheless, I thank her for her commitment, and I look forward to the opportunity of being a father again in a short time.

Mr Speaker, I also want to acknowledge my Assembly colleagues, the other members of the Labor caucus. I have tried to find an opportunity of saying something to them and tonight I have the opportunity. I wanted to let them know that I am very proud to be the third longest serving Labor member in this place. That is nowhere near as long as Mr Berry or Mr Wood, but nevertheless I am the third longest serving Labor member in this place. That perhaps is a unique title that I would like to enhance. Seriously, the support, encouragement and guidance of my colleagues has been greatly appreciated.

I also thank the members of my staff for their continued support and guidance over the past three years. I look forward to working with them in the future, as I do to working with all the Labor staff. I think they do an extraordinary job in extraordinary circumstances.

Mr Speaker, I thank the other members of the Planning and Urban Services Committee who I have had the experience of serving with, Mr Hird and Mr Rugendyke. Some experiences on committee trips perhaps are best left where they were, on committee trips, but nevertheless I thank them for the opportunity of serving on that very interesting and challenging committee.

I thank all the other members of the Assembly. I have enjoyed working with each and every one of you. As someone who was relatively young when self-government came to the ACT, it was an interesting experience when I first arrived in this place to deal with people I had only seen in the newspaper or on television. All of a sudden to be dealing with them face to face was an eye-opener in more ways than one, but it is something which I have always enjoyed and continue to enjoy.

Finally, I thank the very many people who make the Legislative Assembly function so effectively, particularly the attendants, the staff of the secretariat and the library, and the many other people who make our jobs just that little bit easier through their very dedicated and ongoing efforts.

Valedictory

MR HARGREAVES (11.27): Mr Speaker, basically I want do two things. One is to acknowledge a few people and the other is to thank a few people as well. When I came in here I too thought what on earth has happened? I thought all my Christmases had come at once. I had no idea that I would be fortunate enough to serve in this place, and I have had the time of my life while I have been here. It has been a great job. It has been the best job I have ever had in my life. It would have to be the hardest, but I have relished it. I want to express my appreciation to the people of Brindabella who had the faith to give me a shot at it.

I also want to express my appreciation to the staff of the various ministers offices I have dealt with because about 1,200 people or thereabouts have come through the office with problems and we have been able to sort a lot of them out for them. About 75 per cent or thereabouts were people from Brindabella and if it was not for the relationship between various ministers offices and my staff then nobody would have got anywhere. I want to acknowledge those people for what they have done for us, and also acknowledge that network. Whichever side of the fence we are sitting on in the next Assembly, I hope that those things are maintained.

I, too, want to express my appreciation to my caucus colleagues. We are fortunate in having a very broad cross-section of views from the various spectrums within the Labor Party. It is a very colourful array of light. When I first came in here, knowing that the legendary Wayne Berry was here, I thought I had better get some armour on, and I have to say, from my heart, that there has not been a cross word in our caucus. It has been an absolute delight to be part of that process. The legendary Wayne Berry has lived up to every bit of his reputation and I feel quite privileged to have worked in this place with him.

I want to acknowledge also the support staff of my colleagues, particularly people like Sue Robinson who helped me and Narelle and others like us over a very steep learning curve. All of our staff work together particularly well and they share a lot. I want to acknowledge that and to put it on the record.

Mr Speaker, we need to acknowledge, as we all have today, the role of the Assembly staff. You just get blown away by the people who are providing support services here. Someone said—it might have been Mr Kaine, but I forget who it was—that you get a really nice smile when you first arrive in the morning, and there's a "Glad to see you gone" at the end of the day, but always with a smile, and it's really fantastic.

I want specifically to acknowledge the work of Corporate Services. They have been great. A lot has been said about the committee office, and we could not function without the people there. I mentioned specific people in the committee office earlier today. I also want to mention the Hansard staff. How they translate what comes out of our heads and

mouths into something which is meaningful, I'll be blessed if I know. There are great people in the Library and the Education Office. I think the job that the Education Office does in taking our message out to the community is particularly important. I have expressed my thanks to the secretaries of the justice and scrutiny committee.

I want to express my appreciation to the Clerk and Deputy Clerk for their wisdom and experience. I would have fallen over very frequently, and probably very publicly, if it had not been for those people, and I appreciate it very much.

Finally, I want to express my appreciation to my own office staff, Maria Vincent, Lindy Frampton and occasionally Beth Morland. Those staff are the backbone of any office. They are the people who deal with constituents' problems. We don't get the person screaming at the other end of the phone, they do. They are the people who settle people down when they have hassles, and I reckon they need acknowledgment. If any of us look good out there in the electorate, it is because of the work that they put in, and we need to acknowledge that.

I want to acknowledge particularly the great debt that I owe Narelle Luchetti who has been on this roller-coaster ride with us for 3½ years. It has been a very steep learning curve. In my view I have been the most fortunate member here in having Narelle on my staff. People who know her know that she is a credit to this Assembly. She is a credit to young women of her own generation and I think she is an asset to our team.

Mr Speaker, lastly, I want to acknowledge my wife, Jenny, my daughters and my family. I express special thanks to them. We members often forget that when we seek the limelight we often expose those who do not deserve to be exposed. We inadvertently put them into positions where they are asked to defend us. We need occasionally to acknowledge the contribution that they make, not only to us but also to our constituents as well, because it is their strength that enables us to do it. It has been a singular honour to be one of the members for Brindabella, Mr Speaker, and I hope like hell I get back here.

Valedictory

MR RUGENDYKE (11.33): What a thrill and a privilege it has been for me to be able to serve in this term. It has been a really interesting turnaround for an old Senior Constable. I have many people to thank. First, my staff, Liz and Bevan. I openly admit that Bevan is the brains of the business. I could not survive without him. I thank my colleagues and their staff, and the friends I have made in this place. It has been an amazing roller-coaster ride, as I think someone else said.

I thank the various bureaucrats and public servants I have met over the last three years and for whom I have developed an immense respect. I now look forward to repeats of *Yes, Minister*. I can almost name them—the people I see at estimates hearings and around the building and within the building. *Yes, Minister* has a new interest for me. Of course, we all thank our families. I do not think I have enough time to name all mine, but I love them all and I thank them for their support.

I thank my old mate Oz. I came into this place 3½ years ago. He was a footballer and he was able to teach me two things—how to count to nine and how to get my ties to the right length. So thanks, Oz.

One thing that has impressed me about this place, and none of us have any idea of what to expect, is the camaraderie that can be generated here. We see the argy-bargy that happens in the chamber, and we also see the camaraderie and the friendship that we all enjoy as colleagues and workmates in the corridors. That reminded me of the old cartoon about the sheepdog and the wolf. The sheepdog guards the sheep during the day and they clock on and off at the bundy on the way home, saying, "Goodnight, Ralph." It really has been a thrill and a privilege to be able to serve in this place. I look forward to the election and hope to be lucky enough to come back for more of it. I was trying to think of an analogy for *Fawlty Towers*, but I suppose things do go wrong occasionally, and that might be it. But thanks everybody, for your friendship, for your camaraderie, for the work we do together in committees and in this place. It has been a real buzz. Thank you.

Valedictory

MR OSBORNE (11.36): I, too, would like to thank my staff. I worked out six years ago that David Moore was the brains in my office and he has been a rock for me. The most important thing you need in here, I think, is loyalty from your staff, and I have been truly blessed in having Dave. I would like to thank Bevo as well. He came here with Dave and I have seen Bevo develop. He got married, he has got fatter, he has lost hair. He has been terrific.

Mr Moore: He will look like Dave shortly.

MR OSBORNE: He is looking like me. I would like to thank Dave for his friendship as well. I give him a hard time, but I do not know a nicer bloke, really, someone who has a purer heart. I want to thank you for your friendship, mate, and for your loyalty. I want to publicly apologise for all those times I got cranky at you upstairs, too. It's so pathetic, really. It's like those terrible hunters who used to get those defenceless seals. That's what it's like when I abuse him, because he just sits there and takes it.

Mr Rugendyke: You know the apology? This is the apology.

MR OSBORNE: I just want to apologise.

There are some other people I would like to thank: the Labor members I have worked with; Jon, in the committee, who gets angry and blames me for everything, but he has been good to work with; and especially Wayne and Sue for the work that you guys have done with our office. I would like to thank Kerrie for making me think. I still think she is crazy about a lot of things, but I think I have improved as a politician because Kerrie has made me think, so I want to thank her.

I thank all the secretariat.

I, too, would like to thank my family. Mr Moore was talking about his son starting school. I only had two kids when I came in here. I now have six. Sally is talking about seven. I will tell you what I have enjoyed the most, in a sick sort of way, Mr Speaker.

What I have enjoyed the most in the last couple of years is watching Simon with his new son. Those of us who have children have really chuckled to ourselves when he has come in tired in the mornings. I think the key to good parenting is accepting you are going to be tired all the time. I got to bed at about one o'clock this morning and woke up thinking I was having a heart attack, but my seven-year-old was lying on top of me and my two-year-old was next to me in bed. You know, you sort of wake up but you can't breathe?

I want to speak about Mr Moore as well, Mr Speaker. Unlike Mr Stanhope, I actually hated him when I came in here. I did get intrigued with politics. I had just come to Canberra to play footy and I read a story about this bloke going around the world checking out sex and drugs and I thought, "That's the career for me." But when I came in here it was a pleasure to get to know the bloke.

Michael spoke about Fred Daly. Fred was obviously tied up with the Raiders. I was good friends with Fred and he kept saying to me, "Have you learnt the standing orders?" I said, "I don't need to. I sit next to Michael." Michael, you were a great teacher to me and I want to thank you for that. I learnt a lot from Michael and I hope he has been proud of some of the things that I have been able to do.

I was just thinking about what I would like to say to Michael as he heads off into the distance. I was reminded of this story from the *Bible*. One of the great prophets in the Old Testament was Elijah. Jacqui will tell me if I get this wrong, but Elijah picked out his successor. I am not saying that I will be your successor, Michael, but Elijah had this man Elisha whom he taught. When Elijah was going up to heaven—I know Michael is not going up to heaven, but he is leaving—he said to Elisha, "Ask for anything and I will give it to you," and Elisha said, "Just give me a double portion." You have given me a double portion. Thanks.

Valedictory

MRS BURKE (11.42): Mr Speaker, I am reminded of that great double act, Peter Cook and Dudley Moore. I don't know whether you all know it, but now is the time to say goodbye, now is the time to yield a sigh, yield it, yield it. You are all sighing over there. Well, at the end of a huge—

Mr Quinlan: How does that go again?

MR SPEAKER: Repetition is out of order, Mr Quinlan.

MRS BURKE: Now is the time to say goodbye, now is the time to yield a sigh, yield it, yield it. That's enough of that. Okay, order. At the end of a huge exponential and experiential learning curve, I can now give my very grateful thanks to pollyana, Kate Carnell and Margaret Thatcher. If you want the video I can hire it out. Seriously, I would like to thank the former Chief Minister, Kate Carnell. Obviously I would not be standing here if it was not for Kate, so thank you Kate.

I would like to thank all the Assembly staff. There are so many of you to mention. To those present here today, I wish you every success for your future. To all those who are listening, thank you for all the help, all the water that we get, all the doors that are opened, and all the smiles on faces. It's all been said. Thank you.

I would like to thank the Secretariat for all the magnificent work that is done there—Mark McRae, Judith Henderson and David Skinner—and my colleagues on the committees, Wayne, Kerrie, Bill and Dave. We went on a trip to Melbourne and I thought I was going to be the one talking too much, but I couldn't shut Wayne up.

I thank my Liberal Party colleagues. I thank the Chief Minister. He is like Big Brother, but all of you are like big brother, but smaller. I would like to thank you all for your brotherly love—I will put it that way—because you have been long-suffering, patient, kind and very gentle, but I know the honeymoon is over. I would like to thank Brendan for the lollies, Harold for the jokes and Michael for being a constant explainer of standing orders. I do appreciate that, and it is good advice, Paul.

I would really like to thank my staff to this point in time. We hit the boards running girls, but hey, what a go we gave them. Megan, you are an inspiration to me. At 22, I wish you every success. You are going to go far, young girl. I will work hard to ensure that we can build on our small but very effective and very efficient team after 20 October. I think we also may need to look at the gender balance.

I would like to thank my daughter and son-in-law for making me a grandmother. I don't quite know what it is like to have sleepless nights, Simon, but maybe I've got the pleasure to come of having sleepless nights when we get to have the baby more.

I want to thank all the members of the opposition. This is serious; this is true. I have often felt like a police horse in training which is often subjected to a barrage of noise and distractions to prove itself for duty. Well, I honestly mean this. Please take it as it is said. You have certainly helped me in my training for public and political life. I thank you for that because it's been a proving and a testing and I really appreciate your experience. When the barrages come I hope I've done you proud.

Mr Quinlan: We are here to help.

Mr Hargreaves: It's been our pleasure.

MRS BURKE: What? I would like to thank Dave for his calming influence and Ossie for declaring himself as my self-appointed prophet the other day. Thanks Paul. As the only other female member I would like to thank Kerrie Tucker. Thanks Kerrie. We may often have diametrically opposing political views as politicians but I believe that as human beings we do share a compassionate spirit for all of God's creation. Thank you.

Finally, thanks to my husband who is fast learning what it is to be married to a politician. I will leave that there. I have thoroughly enjoyed my time here in this Fourth Assembly. Should the people of the ACT choose to place me in this place once more I will be happy to serve them to the best of my ability and enjoy this place for as long as I am called to.

I too wish everyone all the best in the forthcoming election. Michael, follow your dream. You deserve success. Quitters never win and winners ever quit. See you all on the hustings. I for one hope to be back in this place, not necessarily bigger but possibly brighter.

Valedictory

MS TUCKER (11.46): I would like to thank everyone who supports us here. I will list them. I would like to thank Parliamentary Counsel. I know that they work under extreme pressure on occasions, and stay calm most of the time. I thank Hansard, the attendants, the people in the library, the committee support staff of course, and Judith Henderson in particular. I have worked with her for 6½ years now. She has been a fantastic support and a very competent secretary always, as well as having a great sense of humour, which is always an asset.

The Clerk's office is always very professional, kind and supportive. I really appreciate the work of the Education Office, and I like to support them when they are showing people the Assembly, particularly the young people. The Corporate Services people, once again, are also always helpful and professional. The public servants we have contact with are also very important. The staff of all members in this place are almost always courteous and helpful, but we are all under strain on occasions. The people I work with, the Greens, as other members have said, are very important to the work I do here. I am basically the public face of the work of Roland, Gordon and Allison. They work extremely hard and always with incredible good humour, and I really appreciate that.

I would also like to acknowledge the community, Mr Moore, and you can take that to mean whatever you like. I have made some very special friendships and partnerships if you like with people in the community who have informed my work and enriched my life. One thing I would say about doing this work is that you do get the opportunity to meet really amazing people in the community who you otherwise would not have the opportunity to meet. I think people who get to the point where they are prepared to be engaged or to talk to a representative of the Assembly are people who either have a very special and devastating story or they have courage or they are prepared to show leadership. I think most people in a community live their own life, and it is quite a narrow experience in lots of ways, but when you work here you see all the layers.

I guess that is why, when we had the debate last week on the referendum and we had been thinking about what democracy is and what representative democracy is, I was reflecting on the fact that if you make a decision based on your own personal experience, which is what most people only have, it can be quite a different decision from the one you would make if you are exposed to what we are exposed to here, and that is the layers that exist in our community. I do not know if it is the same for people in all parliaments, because other parliaments are much larger and maybe people can remain more isolated, but in this parliament it is pretty hard to do that. I think we all do have that opportunity.

I also want to thank John Tucker. He is always supportive and has a fantastic sense of humour, which gets me through. I want to wish good luck to Michael who has said he will not be coming back. I hope you have a good time with whatever you do.

I wish everybody luck, although I really do not want to see you all here. I want to see women here, so I am sorry guys, some of you have got to go. I will finish with that, thank you.

Valedictory

MR SMYTH: (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (11.50): Mr Speaker, I would like to start by thanking my family. Amy and Lorena are 15 and they give up a lot for me to be here. I do appreciate that. They mean an awful lot to me. Unlike Dave, I can name all my family and I will, in memory of my mother, dad: Ellen, Moya, Imelda. Angela, Gerard, Matthew, Loretta, Damien and Monica are all good friends. To my friends, Drew, Shaun, Robyn, Dick, Paul and all the rest, thanks for the support.

I thank the staff who have done so much for me and so much with me in the making of me as a politician and a public figure through the last 3½ years—Michael Hopkins, Joanne Elsom, Megan O'Connor, Tamsin Davies, Chris Beinke, Helen Briggs, Adam Stankevicius, James Lennane, Tim Dalton and Pam Wood, who runs the diary so, so well.

I thank all the DLOs who have been in the office and have done a great job and were always part of the family. It has been a pleasure to work with the departments. I have really enjoyed the Urban Services portfolio, and then Police and Emergency Services, and Business Arts and Tourism. From the ASO1s through to the CEOs, they are great people and they do a tremendous job. I think one of the hallmarks of Canberra is the quality of the effort that people put in. Our public servants work very hard.

I thank all the Assembly staff that have been mentioned, the whole range, from the library to the Hansard staff, for all that you do for us. You certainly help the wheels of government grind on, and that is very important.

I want to mention the opposition and the crossbenchers. Edmund Burke said at the time of the French Revolution that the only condition for the triumph of evil is that good men do nothing. I am sure today that he would say that good people do nothing. That is true. If we stop trying, if we stop thinking, if we stop doing, it would be a very sad day not just for the city but for the country and for the world. I think Harold mentioned earlier the influence that we have on the region. I think it is fair to say that this city has an influence beyond the national boundaries and on the world.

Having attended ministerial conferences around this country, they all laugh and joke about us, right up until our vote counts just like theirs. What we do as ministers is incredibly important because as a jurisdiction that is not beholden to a lot of entrenched interests in the main we do have the ability to be forward thinking and to be innovative. We actually have a moral responsibility to do that and to change the city, the country and the world.

It is interesting that so many countries overseas look to us for ideas on everything from greenhouse gas to no waste by 2010. The OECD can come in and say that Canberra is the knowledge capital. They want to lift the public goodwill that we have been able to generate and take it around the world. It is a credit to the Assembly and to the people of Canberra, and that's good.

There have been high times and low times—Tuggeranong homestead, ACTION reform, planning debates, call-ins, water legislation, workers compensation and rural policy. The litany goes on. It was all good fun, and it was very enjoyable.

I would like to say thank you to Kate Carnell who did not finish the term with us. I think that is a shame. I think history will treat her much better than this Assembly has. I would like to thank her for the inspiration that she was to me and for the great things that she has done for Canberra.

Before I finish I seek a small indulgence, which is why I have spoken last. I have a little poem I would like to read that will take me a little bit over my time, but not much, so I ask people to be patient. What Gary did not say was that when he came into the party room this morning he found Michael sitting in his chair. He looked at him and Michael didn't move. Michael stayed there and ran the last party meeting this morning, which I think was quite amusing.

I first met Michael Moore in 1992 on election day at six o'clock at the then South Curtin School booth. I remember standing there with all the other people who had been handing out how-to-vote cards and shaking Michael's hand. He went inside to do some scrutineering and all us Liberals looked at each other and said, "We will never see him again." We were wrong. So I seek a small indulgence and, if I may do so without interruption, I will read a small poem about Michael Moore. It is called "The member":

> Once upon a midnight sitting, while they sat there slowly pitting,
> Wits upon some quaint and curious topic of forgotten law—
> While they nodded, nearly napping, suddenly there came a tapping,
> As of someone gently rapping, rapping on their Chamber door.
> "'Tis some Visitor", they muttered, "tapping at our Chamber door—
> Only this and nothing more."
>
> Ah, distinctly they remember how they each became a Member;
> When the vote of each elector put them here upon this floor.
> Eagerly they wished the morrow;—vainly they had sought to borrow
> From each other speeches hollow—each one given oft before—
> For the rare and radiant promise that each would be held in awe—
> Had become a daily chore.
>
> And the silken, sad, uncertain rustling of each notice paper
> Bored them—filled them with reluctant musings sadly felt before;
> So that now, to still the beating of their hearts, they sat repeating
> "'Tis some Visitor entreating entrance to our Chamber door—
> Some late Visitor entreating entrance to our Chamber door;—
> This it is, and nothing more."
>
> Suddenly they heard a mutter, when, with many a flirt and flutter,
> In there stepped a stately Member of the saintly days of yore;
> Not the least obeisance made he; not a minute stopped or stayed he;
> But, with manner independent, came upon their Chamber floor—
> Stood with flash of bearded visage right upon their Chamber floor—
> Stood, then sat, and nothing more.

Then this MLA beguiling their sad fancy into smiling,
By the grave and stern decorum of the countenance he wore,
"Though thy be not shorn nor shaven," said the Speaker, "you're no craven,
Teacher, resident and maven, hunting Canberra's planning law—
Tell me what thy proper name is here upon our Chamber floor."
Quoth the Member: "Michael Moore."

"Come have I to end the parking of your cars in streets, thus sparking angry residents whose barking protests I've arranged and publicised.
Also here I will attend to workers sexual, and defend
To keep at bay infections pending if they stay outside the law.
For, you see, it seems to be very much too great a flaw
To leave in place a harmful law."

Education, then, he wondered—How to get it better funded?
Budgets surpluses he plundered guaranteeing that good end.
For he told them, parties all, that no support would be provided,
If they failed, every year, to meet this his demand.
They complied, and schooling funded—met with his demand,
Lest the public schools go poor.

Presently his soul grew stronger; hesitating then no longer,
"Sir," said he, "or Madam, minimisations of all harm for sure;
Must be our vision, and provision should be made in law."
And so promptly he came moving, voting on their Chamber floor,
Moving motions and proposals, hoping to amend the law—
Bills and motions and much more.

Wanted he in legislation sundry forms of termination,
Lacking no determination young and old to each provide
An easy if untimely end. Many times he did put forward
Complex arguments undaunted hoping to establish places
And to give dependents choices so they might reduce diseases.
Merely these, and nothing more!

Thus the Member, much-offending many with his talk of ending
Long-established legal order, then with each election pending,
Experts claim his time is ending, as upon their daily polling,
Comes no word of voters casting their approval for his law.
Sent will he be from their Chamber, never back upon their floor.
They'll cast no vote for Michael Moore.

Suddenly, the air grew denser, perfumed by dramatic tension,
All ambition and pretensions staked upon the voters whim.
Every candidate and party put to general election,
Many called but fewer chosen by the public's own selection.
Yet our Member came once further, back upon their Chamber floor.
Back once more was Michael Moore.

But no longer he contented with a crossbench role presented
With decision much lamented into Ministry has he went.
As they protest, choice resented, Liberal Party rooms he entered,
Policies he reinvented, from within their party's door,
Health and housing, youth and prisons, these he took and several more,
held upon their Chamber floor.

Much at question time they marvelled now to hear response so garbled,
Though its answer little meaning—little relevancy bore;
For we cannot help agreeing that no living human being
Ever yet was blessed with seeing independents on this Chamber floor—
On this bench of governmental office on this noble Chamber floor,
With such name as Michael Moore.

"Traitor!" said they, "thing of evil!—Liberal still, if bird or devil!—
Whether Tempter sent, or whether tempest tossed thee here ashore."
Desolate yet all undaunted, on this desert land enchanted—
By this Opposition haunted—"Tell us truly," they implore—
"Is there—is there any future for you—tell us, we implore!"
Quoth the Minister, "For sure".

"Turncoat!" said they, "thing of evil!—Liberal still, if bird or devil!
By that Heaven that bends above us—by that God we (most!) adore."
Controversy sparking, Members barking out their call for him to go
Berry, Kaine—each one concurring— "Force him from our Chamber floor!
Silence him, or force him out, far beyond our Chamber floor!
We've had enough of Michael Moore."

"Stop your endless, pointless, bleating", cried the Speaker, speaking rulings on the Standing Orders, order trying to restore.
"Beat it, hit it", called out Berry, "Hit it now and evermore,
Hit it with the Standing Orders, till it troubles us no more!
Till it flies out from our Chamber, far beyond our Chamber floor!
Quit this place and come no more!"

"Be that word our sign of parting, foe or friend!", he cried, upstarting—
"Get me to the private sector, or some cushy public role!
Leave no motion as a token of that malice thou hath spoken!
Leave my loneliness unbroken!—quit me from your Chamber floor!
Take they words from out my heart, and stand me on your Chamber floor—"
quoth the Member: "Nevermore".

And the Chamber—as is fitting—still is sitting, still is sitting,
With the pallid row of statutes just above their Chamber floor;
And their eyes have all the seeming of a sleeper that is dreaming,
And the lamp-light o'er them streaming throws a shadow on the floor;
And their ears from out that shadow that lies floating on the floor
Hear no longer Michael Moore.

Thanks to Malcolm Baalman and apologies to Edgar Allen Poe.

Debate interrupted.

Friday, 31 August 2001

Justice and Community Safety—Standing Committee
Scrutiny Report No 17 of 2001

Mr Osborne, by leave, presented the following paper:

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Report No 17—Freedom of Information (Amendment) Bill 1998, together with the extracts of minutes of proceedings.

Adjournment

Debate resumed.

MR SPEAKER: Before the Assembly adjourns, minister, I would like to say a few words. First of all I would like to thank my staff, Carly Hannan and the indispensable Sue Whittaker who is probably pretty close to Sue Robinson in terms of service here, Wayne.

I would also like to thank our staff, the Clerk, Mark McRae, and the people I am going to name now because they head up various offices here. I am speaking also of their staff and their predecessors, because in some cases people have left. The Chamber Support Office, Tom Duncan; the Corporate Services Office, Ian Duckworth; the Hansard office, Keith Ryder; the Committee Office, Maureen Weeks; Bryan Guest and all the attendants; Mr Fix-it, Barry Schilg, and Mr Technical Fix-it, Ray Blundell; the Education Officer, Margaret Jones; Brenda Thompson and the librarians.

Members, you will have an opportunity to thank them tomorrow between 3 pm and 5 pm when we are having a reception. We brought forward the Christmas reception to this time. This place does not always work efficiently, but I can tell you that without the assistance of all those people it would not work at all, and we owe them a great debt of gratitude.

Michael, I wish you well, whatever you are going to do. To the rest of you members, I wish you well too. I wish us well in the election that is coming up, and I would like to see you all back here after 20 October in exactly the same seats.

MR MOORE (Minister for Health, Housing and Community Services) (12.05 am), in reply: Thank you, Mr Speaker. I will exercise my right of reply. Before Mr Quinlan moves, having heard his round, I want to say that when they shave my head at some stage, probably when I die, it is possible—and I think many people in the community would expect this—that they will find 666 there. I see an acknowledgment from Mr Osborne. When they shave Mr Quinlan's head they will probably find 344.

Mr Speaker, there is one group that as a community we did not acknowledge, and I think it could be because we have a strange symbiotic relationship with them. I think members would join with me in acknowledging the media and the incredibly hard work they put in. Sometimes they frustrate us like hell. Sometimes they drive us crazy. We think we are being treated unfairly. Sometimes we think, "Well, that wasn't too bad," and sometimes we think, "Well, we've done very well." Overall I think all of us might like to recognise the contribution that they make. We know that each and every one of them also does what they can in terms of our democracy to try to make sure that they deliver, expose and so on, so I ask members to join me in acknowledging them.

Mr Speaker, in the 12 years that I have spent here I have had an overwhelming sense of pride in being in this Assembly. Each and every one of us should be extraordinarily proud of serving in the ACT legislature. It is something you ought to be proud of. I will be proud of it for the rest of my life.

Members, farewell.

Question resolved in the affirmative.

Assembly adjourned at 12.07 am (Friday) to a date and hour to be fixed.

Schedules of amendments

Schedule 1

Payroll Tax Amendment Bill 2001

Amendments circulated by Treasurer

1
Clause 2
Page 2, line 3—
Omit the clause, substitute the following clause:

2 Commencement
This Act commences, or is taken to have commenced, on 1 September 2001.

Note The naming and commencement provisions automatically commence on the notification day (see *Interpretation Act 1967*, s 10B).

2
Clause 9
Proposed new subsections 9A (7), (8) and (9)
Page 4, line 8—
After proposed subsection 9A (6), insert the following subsections:

(7) An approval under subsection (2) (a) that is made within 1 week after the *Payroll Tax Amendment Act 2001* is notified in the Gazette may be expressed to be taken to have effect from 1 September 2001.

(8) Subsection (7) is a provision to which the *Interpretation Act 1967*, section 42 (Repeal does not end transitional or validating effect) applies.

Note This will ensure that despite the expiry of s (7) (by the operation of s (9)), an approval mentioned in subsection (7), expressed to be taken to have effect from 1 September 2001, continues to be valid.

Subsections (7) and (8), and this subsection, expire 1 month after the *Payroll Tax Amendment Act 2001* is notified in the Gazette.

Schedule 2

Defamation Bill 1999

Amendments circulated by Attorney General

1
Clause 4
Proposed new subclause (3)
Page 2, line 21—
At the end of the clause, add the following new subclause:

Subsection (2), the notes mentioned in subsection (2), and this subsection expire 3 years after this section commences.

2
Clause 6
Subclause (3) (g) and (h)
Page 3, line 27—
Omit paragraphs (3) (g) and (h), substitute the following new paragraphs:

(g) must include an offer to pay the expenses incurred by the aggrieved person; and

(h) may include particulars of any correction or apology made, or action taken, before the date of offer; and

(i) may include an offer to pay compensation for any economic loss of the aggrieved person; and

(j) may include an offer to pay compensation for the harm to the aggrieved person's reputation only if the matter in question imputes criminal behaviour by the aggrieved person.

3
Clause 6
Proposed new subclause (3A)
Page 3, line 30—
After subclause (3), insert the following subclause:

(3A)For subsection (3) (i) or (j), an offer to pay compensation may be in any of the following forms:

(a) an offer to pay a stated amount;

(b) an offer to pay an amount to be agreed between the publisher and the aggrieved person or, if an agreement is not made, the amount decided by a court;

(c) an offer to pay the amount decided by a court;

(d) an offer to—

(i) enter into an arbitration agreement within the meaning of the *Commercial Arbitration Act 1986*; and

(ii) pay the amount decided by the arbitrator or, if an arbitration agreement is not made, the amount decided by a court.

4
Clause 6
Proposed new subclause (4)
Page 3, line 31—
Omit subclause (4), substitute the following subclause:

(4) The publisher may not make an offer to make amends after the earlier of—

(a) the end of 14 days after the day the aggrieved person tells the publisher that the matter in question is or may be defamatory of the person; or

(b) the service by the publisher of a defence in an action brought against the publisher by the aggrieved person in relation to the matter in question.

5
Clause 7
Page 4, line 4—
Omit "regard is to be had", substitute "a court must have regard".

6
Clause 7
Proposed new subclause (2)
Page 4, line 13—
At the end of the clause, add the following new subclause:

(2) However, subsection (1) does not limit the matters that the court may take into account in deciding whether an offer to make amends is reasonable.

7
Proposed new clause 8
Page 4, line 14—
Omit the clause, substitute the following clause:

8 Acceptance of offer to make amends

(1) If an offer to make amends is accepted, a court may—

(a) order the publisher to pay the aggrieved person the expenses incurred by the aggrieved person in accepting and performing the agreement made by acceptance of the offer (the ***amends agreement***); and

(b) on the application of a party to the amends agreement, decide the amount of compensation mentioned in section 6 (3A) (b), (c) or (d).

(2) If a question arises about what must be done to perform the amends agreement, the court may decide the question on the application of either party.

(3) If the publisher performs the amends agreement (including paying any compensation under the agreement) the aggrieved person must not begin or continue an action against the publisher in relation to the matter in question.

8
Clause 10
Subclause (2)
Page 5, line 4—
Omit "the Supreme Court", substitute "a court".

9
Clause 11
Subclause (2)
Page 5, line 12—
Omit "the court", substitute "the Supreme Court".

10
Proposed new clause 16
Page 6, line 14—
Omit the clause, substitute the following clause:

16 Defence of truth and public benefit (1901 s 6)
It is a defence if the defendant establishes—
(a) the truth of the published matter in accordance with the common law; and
(b) that it was for the public benefit that the matter should be published.

11
Proposed new clause 22
Page 11, line 4—
Omit the clause, substitute the following clause:

22 Defence of apology and payment into court (1901 s 8)
(1) The defendant may plead that the published matter that is or may be a libel was published without actual malice and without gross negligence, and that before the action was begun or as soon as practicable afterwards, the defendant published a full apology for the libel or, if this was not possible, had offered to publish an apology in a way to be selected by the plaintiff.
(2) The defendant, after filing a defence under subsection (1), may pay into court an amount by way of amends for the libel.

12
Clause 23
Proposed new subclause (2)
Page 11, line 14—
Omit the subclause, substitute the following subclause:

(2) For subsection (1), it is sufficient if—
(a) the defendant establishes that the defendant took reasonable steps to ensure the accuracy of the published matter; and
(b) the defendant gave the plaintiff a reasonable opportunity to comment on the published matter before it was published.

13
Clause 26
Subclause (3)
Page 12, line 8—
Omit "a judge", substitute "a court".

14
Division 4.3
Page 16, line 18—
Omit the division.

15
Clause 44
Page 18, line 7—
Omit "the Supreme Court", substitute "a court".

16
Clause 45
Proposed new subclause (2)
Page 18, line 12—
Omit the subclause, substitute the following subclause:

(2) The *Legislation Act 2001*, schedule 1, part 1.1 is amended by omitting the items about the *Defamation Act 1901* and *Defamation (Amendment) Act 1909*.

17
Dictionary
Proposed new definition of *court*
Page 19, line 8—
After the definition of ***country***, insert the following new definition:
1 ***court***, in relation to an action for defamation, means a court of competent jurisdiction.

Schedule 3

Defamation Bill 1999

Amendments circulated by Attorney General

1
Clause
Page 1, line 6—
Omit the clause, substitute the following clause:

2 Commencement
This Act commences on 1 July 2002.
Note The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

2
Clause 10
Subclause (2)
Page 5, line 1—
Omit the subclause.

3
Proposed new clause 44A
Page 18, line 8—
After clause 44, insert the following new clause:

44A Review of certain provisions of Act

(1) The Minister must review the operation of part 2 (Resolution of disputes without litigation) and section 23 (Defence—defendant not negligent) after these provisions have been operating for 2 years.

(2) The Minister must present to the Legislative Assembly a report of the review within 6 months after the review begins.

(3) This section expires on 1 January 2005.

Schedule 4

Protection Orders Bill 2001

Amendments circulated by Attorney General

1
Clause 5
Page 4, line 5—
Omit the clause, substitute the following clause:

5 Objects
The objects of this Act include—
to prevent violence between family members and others who are in a domestic relationship, recognising that domestic violence is a particular form of interpersonal violence that needs a greater level of protective response; and
to provide a mechanism to facilitate the safety and protection of people who experience domestic or personal violence.

2
Clause 12
Subclause (1)
Proposed new notes
Page 8, line 29—
Insert the following new notes:
Note 1 *The Macquarie Dictionary*, 3rd ed, defines ***next friend*** as a person bringing action in a court of law on behalf of a minor or person of unsound mind.
Note 2 The regulations may prescribe how a next friend may be appointed (see s 106 (3) (b) (i)).

3
Clause 37
Subclause (3)
Page 23, line 7—
Omit the subclause, substitute the following subclauses:

(3) If the original order is a domestic violence order, the Magistrates Court must, on application, amend the original order by extending it for not longer than 1 year unless satisfied that a protection order is no longer necessary to protect the aggrieved person from domestic violence by the respondent.

(3A) If the original order is a personal protection order, the Magistrates Court may amend the original order by extending it only if satisfied that a protection order is still necessary to protect the aggrieved person from personal violence by the respondent.

(3B) Subsections (3) and (3A) do not apply if the order amending the original order by extending it is a consent order.

4
Clause 48
Subclause (1)
Note
Page 31, line 7—
Omit the note, substitute the following notes:

Note 1 A final order includes an order amending a final order (see dict, def of ***final order***).
Note 2 Section 13 sets out who may apply to amend or revoke an interim order.

5
Clause 51
Subclause (2)
Proposed new example
Page 32, line 5—
Insert the following new example:

Example of when Magistrates Court may be satisfied adequate arrangements made for child

If a government agency responsible for the care and protection of children has found alternative accommodation for the child.

6
Clause 59
Subclause (2)
Page 35, line 21—
Omit the subclause, substitute the following subclause:

A further interim order may be made in relation to the final order only if the Magistrates Court is satisfied that there are special or exceptional circumstances (having regard to the principles for making protection orders) that justify the making of a further interim order.
Note The principles for making protection orders are in s 6.

7
Clause 69
Subclause (3)
Proposed new example
Page 41, line 2—
Insert the following new example:

Example of when judicial officer may be satisfied adequate arrangements made for child

If a government agency responsible for the care and protection of children has found alternative accommodation for the child.

8
Title
Page 1—
Omit the title, substitute the following title:

An Act about orders to protect people from domestic violence and personal violence

Schedule 5

Protection Orders Bill 2001

Amendments circulated by Ms Tucker

Insert new section 106A:

Review

(1) The Minister will ask the Domestic Violence Prevention Council to review the relevant sections of this Act and its regulations for consistency with Model Domestic Violence Laws as soon as practicable, and no later than six months after the commencement of the Act;

(a) The report on the review must be presented by the Minister to the Legislative Assembly within 3 sitting days of receipt of the report;

(2) The Minister must review the operations of the provisions of this Act relating to domestic violence as soon as is practicable after 6 months but no later than 12 months after the commencement of this Act;

(a) The review must engage in relevant community consultations;
(b) The Minister's report must describe the processes of community consultation used in the review;
(c) A report on the outcomes of the review must be presented by the Minister to the Legislative Assembly within six months after the end of the 12 months.

(3) This section ceases to have effect 12 months after the Act commences.

Schedule 6

Protection Orders Bill 2001

Amendments circulated by Ms Tucker

Insert new section 106A:

Review

(3) The Minister will ask the Domestic Violence Prevention Council to review the relevant sections of this Act and its regulations for consistency with Model Domestic Violence Laws as soon as practicable, and no later than six months after the commencement of the Act;

(b) The report on the review must be presented by the Minister to the Legislative Assembly within 3 sitting days of receipt of the report;

(4) The Minister must review the operations of the provisions of this Act relating to domestic violence as soon as is practicable after 18 months but no later than 2 years after the commencement of this Act;

(d) The review must engage in relevant community consultations;
(e) The Minister's report must describe the processes of community consultation used in the review
(f) A report on the outcomes of the review must be presented by the Minister to the Legislative Assembly within six months after the end of the 12 months.

(3) This section ceases to have effect 24 months after the Act commences.

Schedule 7

Protection Orders Bill 2001

Amendments circulated by Attorney General

Insert new section 106A:

Review

(1) The Minister must to review the relevant sections of this Act and its regulations for consistency with Model Domestic Violence Laws as soon as practicable, and no later than 12 months after the commencement of the Act;

(c) The report on the review must be presented by the Minister to the Legislative Assembly within 3 sitting days of receipt of the report;

(2) The Minister must review the operations of the provisions of this Act relating to domestic violence as soon as is practicable after 18 months but no later than 24 months after the commencement of this Act;

(g) The report on the review must be presented by the Minister to the Legislative Assembly within 3 sitting days of receipt of the report;

(3) This section ceases to have effect 24 months after the Act commences.

Schedule 8

Environment Protection Amendment Bill 2001

Amendments circulated by Ms Tucker

1
Clause 2
Page 2, line 4—
Omit the clause, substitute the following clause:

2 Commencement
This Act commences on the day it is notified in the Gazette or immediately after the commencement of the *Legislation Act 2001*, section 18 (ACT legislation register), whichever is later.

2
Proposed new clause 5A
Page 2, line 21—
After clause 5, insert the following new clause:

5A Section 4 (1), definition of *environment improvement initiative*, paragraph (a)
omit
section 31
substitute
section 31C

3
Proposed new clause 7A
Page 3, line 6—
After clause 7, insert the following new clause:

7A Section 23
substitute
23 Duty to notify actual or threatened environmental harm
(1) This section applies if a person becomes aware that an activity has caused, is causing or is likely to cause serious or material environmental harm that is not authorised under this Act or another Territory law (the ***environmental situation***).

(2) As soon as reasonably practicable after becoming aware of the environmental situation, the person must tell the authority about—
(a) the environmental situation and its nature; and
(b) if the person is the person who has conducted or is conducting the activity—the action taken, or being taken, to deal with the situation and any environmental harm caused, being caused or likely to be caused.

(3) A person must not, without reasonable excuse, contravene subsection (2).
Maximum penalty: 50 penalty units.

(4) A person is not required to comply with subsection (2) if the person believes on reasonable grounds that an authorised officer is already aware of the environmental situation.

4
Proposed new clause 7B
Page 3, line 6—
After clause 7, insert the following new clause:

7B Contents
Section 24
omit
this part,
substitute
this part and relevant best practice,

5
Proposed new clauses 7C to 7F
Page 3, line 6—
After clause 7, insert the following new clauses:

7C Consultation on draft environment protection policy
Section 25 (1) (b)
omit
obtained;
substitute
inspected and obtained;

7D Section 25 (1) (c)
substitute
(c) inviting anyone to make written suggestions or comments about the draft policy to the authority, at the place stated in the notice, within 40 working days after the day the notice is published in a daily newspaper (the ***consultation period***).

7E Section 25 (4)
omit
for inspection
7F Making of environment protection policy
Section 27 (1)
omit
with section 26
substitute
with sections 25 and 26

6
Proposed new clause 7G
Page 3, line 6—
After clause 7, insert the following new clause:

7G Section 31
substitute
31 Definitions for pt 5

In this part:
code of practice means a code that sets out ways of achieving compliance, having regard to relevant best practice, with the general environmental duty by a person who—
(a) conducts a harmful activity; or
(b) conducts a group of related harmful activities; or
(c) is engaged in an industry in which some or all activities are harmful activities.
consultation period—see section 31A (1).
harmful activity means an activity that causes or is likely to cause environmental harm.

31A Consultation before accrediting codes of practice

(1) If the Minister proposes to approve a code of practice, the Minister must prepare a written notice—
(a) containing a brief description of the proposed code; and
(b) stating where copies of the proposed code may be inspected and obtained; and
(c) inviting anyone to make written suggestions or comments about the proposed code to the Minister, at the place stated in the notice, within 40 working days after the day the notice is published in a daily newspaper (the ***consultation period***).

(3) The notice is a notifiable instrument.
Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(4) The Minister must also publish the notice in a daily newspaper.

(5) During the consultation period, the Minister must make copies of the proposed code of practice available in accordance with the notice.

(6) The Minister must send a copy of a proposed code of practice, without charge, to—
(a) the Conservation Council of the South-East Region and Canberra (Inc.); and
(b) the Canberra Business Council Inc.

31B Consideration of suggestions etc and revision of proposed code of practice

(1) The Minister must consider the suggestions and comments made to the Minister during the consultation period about the proposed code of practice.

(2) The Minister may, in writing and in accordance with any of the suggestions or comments—
(a) revise the proposed code of practice; or
(b) if the proposed code of practice had not been prepared by the Minister—ask the person who had prepared it to revise it.

31C Accreditation of codes of practice

(1) After complying with sections 31A and 31B in relation to a proposed code of practice, the Minister may, in writing, accredit the code of practice.

(2) An accredited code of practice is a disallowable instrument.
Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

7
Proposed new clause 7H
Page 3, line 6—
After clause 7, insert the following new clause:

7H Deemed compliance with general environmental duty
Section 33
omit
section 31 (1)
substitute
section 31C (1)

8
Proposed new clause 7I
Page 3, line 6—
After clause 7, insert the following new clause:

7I Section 38
substitute
37A Consultation on proposed environmental protection agreement

(1) If the authority proposes to enter into an environmental protection agreement, the authority must prepare a written notice—

(a) containing a brief description of the proposed agreement; and

(b) stating where copies of the proposed agreement may be inspected and obtained; and

(c) inviting anyone to make written suggestions or comments about the proposed agreement to the authority, at the place stated in the notice, within 40 working days after the day the notice is published in a daily newspaper (the ***consultation period***).

(2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) The authority must also publish the notice in a daily newspaper.

(4) During the consultation period, the authority must make copies of the proposed environmental protection agreement available in accordance with the notice.

37B Consideration of suggestions and comments

(1) The authority must consider the suggestions and comments made to it during the consultation period about the proposed environmental protection agreement.

(2) In this section:

consultation period—see section 37A (1).

38 Entering into environmental protection agreements

(1) After complying with sections 37A and 37B in relation to a proposed environmental protection agreement, the authority may, for relevant purposes, enter into the environmental protection agreement in relation to an activity with the person who is conducting or proposing to conduct the activity.

(2) In this section:

relevant purposes means—

(a) the purposes of section 42 (2) (a); or

(b) otherwise for the purposes of giving effect to the objects of this Act.

9
Proposed new clause 7J
Page 3, line 6—
After clause 7, insert the following new clause:

7J Form and terms of agreements
Section 39 (c)
omit
this Act
substitute
this Act and relevant best practice, including

10
Proposed new clause 7K
Page 3, line 6—
After clause 7, insert the following new clause:

7K Notification of environmental protection agreements
Section 41 (1)
omit
(Entering agreements)
substitute
(Entering into environmental protection agreements)

11
Clause 8
Page 3, line 7—
Omit the clause, substitute the following clause:

8 New section 41 (5) to (7)
insert

(5) However, if a declaration under subsection (6) is made in relation to an environmental protection agreement, the following do not apply in relation to the agreement:

(a) subsection (3);

(b) the requirement under subsection (4) to publish the notice in a daily newspaper.

(6) The Minister may, in writing, declare that subsection (3) does not apply in relation to an environmental protection agreement if satisfied that the activity to which the agreement relates is not likely to cause environmental harm if it is carried out in accordance with the agreement.

(7) A declaration under subsection (6) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

12
Proposed new clauses 8A to 8M
Page 3, line 18—
After clause 8, insert the following new clauses:

8A Section 48
omit
8B Section 49, heading
substitute
49 Consideration of applications for environmental authorisations

8C Section 49 (1)
omit everything before paragraph (a), substitute
(1) Within 20 working days of receiving an application under section 47 the authority must—

8D Section 49 (1) (a)
omit
grant an
substitute
prepare a proposed

8E Section 49 (1), new note
insert
Note In making a decision under this subsection the authority must take into account certain matters mentioned in s 61 (Matters required to be taken into account for certain decisions under div 8.2).

8F Section 49 (2) (a)
omit
grant the
substitute
prepare the proposed

8G Section 49 (3) (a)
omit
grant the
substitute
prepare the proposed

8H Section 49 (4) (a)
omit
grant the
substitute
prepare the proposed

8I Section 49 (5) (a)
omit
granting or refusing
substitute
to prepare a proposed environmental authorisation or to refuse

8J Section 49 (5) (b)
omit
granting or refusing
substitute
to prepare a proposed environmental authorisation or to refuse

8K Section 49 (5) (c)
substitute
(c) if the authority is satisfied that it is appropriate to grant an environmental authorisation for the activity, grant the authorisation for the period and subject to the conditions (if any) specified in the authorisation; or
Note In making a decision about whether it is appropriate to grant an environmental authorisation under section 49 (5) (c), the authority must take into account certain matters mentioned in s 61 (Matters required to be taken into account for certain decisions under div 8.2).

8L New sections 49A to 49C
insert
49A Consultation on proposed environmental authorisations
(1) If the authority has prepared a proposed environmental authorisation, the authority must prepare a written notice—
(a) containing a brief description of the prescribed activity and its location; and
(b) stating where copies of the proposed environmental authorisation and the relevant application under section 47 (the ***relevant application***) may be inspected and obtained; and
(c) inviting anyone to make written suggestions or comments about the proposed environmental authorisation or the relevant application (or both) to the authority, at the place stated in the notice, within 40 working days after the day the notice is published in a daily newspaper (the ***consultation period***).

(2) The notice is a notifiable instrument.
Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) The authority must also publish the notice in a daily newspaper.

(4) During the consultation period, the authority must make copies of the proposed environmental authorisation and the relevant application available in accordance with the notice.

(5) The Minister may, in writing, declare that this section does not apply to a prescribed activity.

(6) A declaration under subsection (5) is a disallowable instrument.
Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

(7) The authority is not required to comply with subsections (1) to (4) in relation to a proposed environmental authorisation that relates to a prescribed activity stated in a declaration under subsection (5).

49B Consideration of suggestions and comments

(1) The authority must consider the suggestions and comments made to it during the consultation period about the proposed environmental authorisation and the relevant application.

(2) In this section:

consultation period—see section 49A (1).

relevant application—see section 49A (1).

49C Grant of environmental authorisations

(1) If the authority—

(a) is not required to comply with section 49A in relation to a proposed environmental authorisation for an activity; and

(b) is satisfied that it is appropriate to grant an environmental authorisation for the activity;

the authority must grant the authorisation for the period and subject to the conditions (if any) specified in the authorisation.

(2) If the authority—

(a) is required to comply with section 49A in relation to a proposed environmental authorisation for an activity; and

(b) has complied with sections 49A and 49B in relation to the proposed authorisation; and

(c) is satisfied that it is appropriate to grant an environmental authorisation for the activity;

the authority must grant the authorisation for the period and subject to the conditions (if any) specified in the authorisation.

(3) The authority may only grant an environmental authorisation in relation to a development if an application to conduct that development has been approved under the Land Act, part 4.

Note In making a decision about whether it is appropriate to grant an environmental authorisation under this section, the authority must take into account certain matters mentioned in s 61 (Matters required to be taken into account for certain decisions under div 8.2).

(4) To remove any doubt, this section does not apply to the granting of an environmental authorisation under section 49 (5).

8M Notification of grant

Section 50 (1)

substitute

(1) The authority must tell the applicant in writing of its decision to grant an environmental authorisation under section 49C.

13

Clause 9

Page 3, line 19—

Omit the clause, substitute the following clause:

9 New section 50 (7) to (9)

insert

(7) However, if a declaration under subsection (8) is made in relation to an environmental authorisation, the following do not apply in relation to the authorisation:

(a) subsection (5);

(b) the requirement under subsection (6) to publish the notice in a daily newspaper.

(8) The Minister may, in writing, declare that subsection (5) does not apply in relation to an environmental authorisation if satisfied that the activity authorised by the authorisation is not likely to cause environmental harm if it is carried out in accordance with any conditions stated in the authorisation.

(9) A declaration under subsection (8) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

14
Proposed new clause 9A
Page 4, line 3—
After clause 9, insert the following new clause:

9A Kinds of conditions
Section 51 (a)
omit
this Act
substitute
this Act and relevant best practice, including

15
Proposed new clause 9B
Page 4, line 3—
After clause 9, insert the following new clause:

9B Review of accredited environmental authorisations
Section 58 (4)
omit
section 49
substitute
section 49C

16
Proposed new clause 9C
Page 4, line 3—
After clause 9, insert the following new clause:

9C New section 58A
insert

58A Notification of proposed review of environmental authorisation

(1) If the authority proposes to review an environmental authorisation under section 57 (1) or 58 (1), the authority must prepare a written notice—

(a) containing a brief description of the authorisation; and

(b) stating where copies of the authorisation may be inspected and obtained; and

(c) inviting anyone to make written suggestions or comments about the authorisation to the authority, at the place stated in the notice, within 20 working days after the day the notice is published in a daily newspaper (the ***consultation period***).

(2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) The authority must also publish the notice in a daily newspaper.

(4) During the consultation period, the authority must make copies of the authorisation available in accordance with the notice.

(5) In reviewing the environmental authorisation, the authority must consider the suggestions and comments received about the authorisation during the consultation period.

17
Proposed new clause 9D
Page 4, line 3—
After clause 9, insert the following new clause:

9D Matters required to be taken into account for certain decisions under div 8.2
Section 61
omit
section 49 (1)
substitute
section 49 (1), 49 (5), 49C

18
Clause 11
Page 4, line 15—
Omit "60", substitute "40".

19
Proposed new clause 16A
Page 5, line 15—
After clause 16, insert the following new clause:

16A Application for order
Section 127 (2)
substitute
(2) The court must give leave under subsection (1) (b) unless satisfied that—
(a) the person has not asked the authority to take action under this Act; or
(b) the person has asked the authority to take action under this Act, but a reasonable period for the authority to take action has not yet elapsed; or
(c) the application is frivolous or vexatious.

20
Proposed new clause 16B
Page 5, line 15—
After clause 16, insert the following new clause:

16B Review of decisions
Section 135 (1) (d) (e) and (f)
omit
section 49 (1) (a), (2) (a), (3) (a) or (4) (a)
substitute
section 49C

21
Clause 18
Proposed new subsection 167 (1)
Page 5, line 22—
Omit “1 June 2003”, substitute “1 June 2005”.

22
Clause 18
Proposed new subsection 167 (2)
Page 5, line 24—
Omit “1 June 2004”, substitute “1 June 2006”.

23
Proposed new clause 19A
Page 6, line 4—
After clause 19, insert the following new clause:

19A Schedule 1, clause 2 (c)
omit
commercial

24
Clause 20
Proposed new paragraph 2 (ca)
Page 6, line 7—
Omit “commercial”.

Schedule 9

Environment Protection Amendment Bill 2001

Amendments circulated by Minister for Urban Services

1
Clause 16
Proposed new subsection 101 (1)
Page 5, line 8—
Omit the subsection, substitute the following subsection:

(1) An authorised officer who enters premises under section 96 (Entry of premises—routine inspections) may, if satisfied on reasonable grounds that it is necessary to do so because of urgent and serious circumstances, require the occupier or a person on the premises to do any of the following:

(a) answer questions;

(b) furnish information;

(c) make available to the authorised officer any record or document kept on the premises;

(d) provide reasonable assistance to the authorised officer in relation to the exercise of the authorised officer's functions.

Schedule 10

Protection Orders (Consequential Amendments) Bill 2001

Amendments circulated by Attorney General

1
Schedule 1
Part 2
Proposed new amendment 1.12A
Page 11, line 5—
Before amendment 1.13, insert the following new amendment:

[1.12A] Part 6.2, division 1 to Part 7.1, division 1
renumber as division 6.2.1 to division 7.1.1

2
Schedule 1
Part 2
Amendments 1.14 to 1.15
Page 11, line 13—
Omit the amendment, substitute the following amendments:

[1.13A] Part 7.2, division 1 to part 7.3, division 1
renumber as divisions 7.2.1 to 7.3.1

[1.14] Section 194, definition of *final care and protection order*
substitute
final care and protection order means an order under division 7.3.7 (Final care and protection orders) (other than a protection order or interim order), or a contact order, residence order or therapeutic protection order made as a final care and protection order.

[1.14A] Section 194, new definitions of final protection order and interim protection order
insert
final protection order—see the *Protection Orders Act 2001*, dictionary, definition of ***final order***.
interim protection order—see the *Protection Orders Act 2001*, dictionary, definition of ***interim order***.

[1.15] Section 205
substitute
205 When may the court make an interim protection order?
(1) The court may make an interim protection order in relation to a child or young person at any time on an application (the ***care and protection application***) for a care and protection order in relation to the child or young person—
(a) on its own initiative, on further application by a party to the care and protection application or on application by the community advocate; and
(b) if the court is satisfied that it is necessary to make the interim protection order to ensure the safety of the child or young person until the care and protection application is decided.
Note The grounds for making an interim protection order are intended to mirror the grounds mentioned in the *Protection Orders Act 2001*, s 49.

(2) To remove doubt, the court may not make an interim protection order that the Magistrates Court could not make on an application for a final protection order made in accordance with the *Protection Orders Act 2001*.

Example

The court could not make an interim protection order for a period longer than that allowed for interim protection orders under the *Protection Orders Act 2001*.

205A When may the court make a final protection order?

(1) The court may make a final protection order in relation to a child or young person on an application (the ***care and protection application***) for a care and protection order in relation to the child or young person—

(a) on its own initiative, on further application by a party to the care and protection application or on application by the community advocate; and

(b) if the person against whom the final protection order is proposed to be made—

(i) has engaged in domestic violence in relation to the child or young person; or

(ii) has engaged in personal violence towards the child or young person and may engage in personal violence towards the child or young person during the time the order is proposed to be made if the order is not made.

Note The grounds for making a final protection order are intended to mirror the grounds mentioned in the *Protection Orders Act 2001*, s 40.

(2) To remove doubt, the court may not make a final protection order that the Magistrates Court could not make on an application for a final protection order made in accordance with the *Protection Orders Act 2001*.

(3) In this section:

domestic violence—see the *Protection Orders Act 2001*, dictionary.

personal violence—see the *Protection Orders Act 2001*, dictionary.

205B Can someone apply for a protection order if no care and protection proceedings?

(1) This section applies if—

(a) someone wants to apply for a protection order in relation to a child or young person; and

(b) no application for a final care and protection order has been made in relation to the child or young person.

Note A *final care and protection order* does not include a protection order (see s 194, def of *final care and protection order*).

(2) The person may not apply for a protection order under this Act.

(3) To remove doubt, this section does not stop the person from applying for a protection order under the *Protection Orders Act 2001*.

205C What is the affect of making a protection order under this Act?

(1) A protection order made under this Act is taken to have been made under the *Protection Orders Act 2001*.

Examples of consequences of protection order being taken to have been made under Protection Orders Act

1 The protection order can be amended (including by extension) or revoked under that Act

2 The provisions about consent orders under that Act apply to the amendment (including by extension) or revocation of the protection order

3 The provisions dealing with the end of protection orders under that Act apply to the order.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 (3), s 132.

(2) The making of the protection order on an application for a care and protection order does not affect the validity of the protection order.

(3) In applying the *Protection Orders Act 2001*, section 13 (Who may apply to amend or revoke a protection order?) to the protection order, the community advocate is taken to have been a party to the application for the protection order.

(4) In applying the *Protection Orders Act 2001* to an interim protection order made under this Act—

(a) a reference in that Act to a ***final order*** is taken to be a reference to a final care and protection order; and

(b) a reference in that Act to the ***application*** or ***proceeding*** is taken to be a reference to the application or proceeding under this Act in relation to which the interim protection order was made.

Example for par (a)

The *Protection Orders Act 2001*, s 53 (c) provides that an interim order ends in certain circumstances when the final order is made. Applying par (a), the interim protection order ends when the final care and protection order is made in those circumstances.

[1.15A] Part 7.3, divisions 2 to 7

renumber as divisions 7.3.2 to 7.3.7

3
Schedule 1
Part 2
Proposed new amendment 1.16A
Page 12, line 12—

After amendment 1.16, insert the following new amendment:

[1.16A] Part 7.3, division 8 to part 9.2, division 4

renumber as divisions 7.3.8 to 9.2.4

4
Schedule 1
Part 2
Amendment [1.19]
Page 12, line 21—

Omit the amendment, substitute the following amendments:

[1.18A] Dictionary, new definition of *final protection order*

insert

final protection order, for chapter 7 (Children and young people in need of care and protection)—see section 194 (Definitions for ch 7).

[1.19] Dictionary, definition of *interim order* for chapter 8

substitute

interim order—

(a) for part 7.3 (Care and protection orders and emergency action), means an order under section 251 (1) (e); and

(b) for chapter 8 (Transfer of child care and protection orders and proceedings)—see section 299.

5
Schedule 1
Part 2
Proposed new amendment 1.20A
Page 13, line 4—
After amendment 1.20, insert the following new amendment:

[1.20A] Dictionary, new definition of *interim protection order*
insert
interim protection order, for chapter 7 (Children and young people in need of care and protection)—see section 194 (Definitions for ch 7).

6
Schedule 1
Part 3
Proposed new amendment 1.26A
Page 14, line 23—
After amendment 1.26, insert the following new amendment:

[1.26A] Part 17
substitute
Part 17 Transitional
579 Expiry—Motor Traffic Act
The definition of ***domestic violence offence*** in the dictionary, paragraph (e) and this section expire on 1 January 2002.

Schedule 11

Long Service Leave (Cleaning, Building And Property Services) Amendment Bill 2001

Amendment circulated by Mr Berry

1
Page 4, line 17
Insert new section

3BA The 80% rule
(1) This section applies to the engagement of an individual to carry out cleaning work by a person (*the employer)* if –
a) the individual has been engaged by the employer under a contract for services to work for the employer; and
b) 80% or more of the individual's income while working under the contract is earned under the contract; and
c) the individual personally does part or all of the work.

(2) For this Act, the individual is taken to be an *employee* employed by the employer.

Schedule 12

Long Service Leave (Cleaning, Building And Property Services) Amendment Bill 2001

Amendments circulated by Minister for Urban Services

1
Schedule 1
Page 32, line 19—
Insert the following new amendment:

[1.10A] Section 42 (1) (d)
omit
period of 2 months
substitute
quarter

2
Schedule 2
Proposed new schedule 1
Page 38—
Omit the schedule, substitute the following schedule:

Schedule 1 Examples of calculation of leave payments
(see s 57)
Example 1
Full-time employee receiving above award

Year	Actual pay	Relevant annual award pay	Actual pay ÷ relevant annual award pay
Year 1	20800	19000	1.094736842
Year 2	21800	19000	1.147368421
Year 3	22000	19000	1.157894737
Year 4	22800	20000	1.14
Year 5	23000	21000	1.095238095
Year 6	23100	21000	1.1
Year 7	24100	21000	1.147619048
Year 8	24150	22000	1.097727273
Year 9	25000	22000	1.136363636
Year 10	25200	23000	1.095652174
Total	231950	207000	11.21260023

The total amount formula is—

$$\sum relevant\ years\left(\frac{actual\ pay}{relevant\ annual\ award\ pay}\right)\times\left(\frac{current\ annual\ award\ pay}{60}\right)$$

Applying the formula to this example gives:

$$11.2126 \times \left(\frac{23000}{60} \right) = 4298.16342$$

Which is $4298.16.

The weekly amount formula is:

$$\sum relevant\ years \left(\frac{actual\ pay}{relevant\ annual\ award\ pay} \right) \times \left(\frac{current\ annual\ award\ pay}{60} \right) \div \left(\frac{13}{15} \times 10 \right)$$

As a weekly payment the amount would be:

$$4298.16 \div \left(\frac{13}{15} \times 10 \right) = \$495.94.$$

Example 2
Part-time employee—5 days a week at various hours

Year	Actual pay	Relevant annual award pay	Actual pay÷ relevant annual award pay
Year 1	10400	19000	0.547368421
Year 2	11400	19000	0.6
Year 3	11400	19000	0.6
Year 4	15000	20000	0.75
Year 5	14000	21000	0.666666667
Year 6	11000	21000	0.523809524
Year 7	19000	21000	0.904761905
Year 8	5000	22000	0.227272727
Year 9	14000	22000	0.636363636
Year 10	8000	23000	0.347826087
Total	119200	207000	5.804068967

The formula:

$$\sum relevant\ years \left(\frac{actual\ pay}{relevant\ annual\ award\ pay} \right) \times \left(\frac{current\ annual\ award\ pay}{60} \right)$$

Applying the formula to this example gives:

$$5.804069 \times \left(\frac{23000}{60} \right) = 2224.893104$$

Which is $2224.89.

The weekly amount formula is:

$$\sum relevant\ years \left(\frac{actual\ pay}{relevant\ annual\ award\ pay} \right) \times \left(\frac{current\ annual\ award\ \ pay}{60} \right) \div \left(\frac{13}{15} \times 10 \right)$$

As a weekly payment, the amount would be:

$$2224.89 \div \left(\frac{13}{15} \times 10 \right) = \$256.72.$$

Schedule 13

Road Transport (Public Passenger Services) Amendment Bill 2001

Amendments circulated by Minister for Urban Services

1
Clause 8
Proposed new division 3.1
Page 5, line 15—
Omit the division, substitute the following division:

Division 3.1 Basic concepts
29 Meaning of *taxi network* (ACT Taxi reg, dict, def of ***taxi network***, NSW s 29A, def of ***taxi-cab network***)
A ***taxi network*** is an entity that provides taxi related services to affiliated accredited taxi service operators, including providing (directly or through another entity) a taxi booking service for the network.

29A Meaning of *taxi booking service* (ACT Taxi reg, dict, def of ***booking service***, NSW s 29A, def of ***taxi-cab booking service***)
A ***taxi booking service*** is a service provided by or for an accredited taxi network provider that—
(a) accepts bookings for taxis from people; and
(b) sends messages about bookings to taxi drivers by electromagnetic energy to equipment in taxis that can receive such messages.

2
Clause 8
Proposed new section 29G
Page 8, line 22—
Omit the section.

3
Clause 8
Proposed new paragraph 29H (c)
Page 9, line 15—
Omit the paragraph, substitute the following paragraphs:
(c) the specifications for equipment operated by or for networks for sending messages (including messages sent through a taxi booking service) to taxi drivers; and
(ca) the specifications for taximeters; and

4
Clause 8
Proposed new paragraph 29H (e)
Page 9, line 20—
Omit the paragraph, substitute the following paragraph:
(e) the operation of, and service standards for, taxi booking services operated by or for networks (including, for example, service standards about when a booking must be transferred to another taxi or a taxi booking service for another taxi network); and

5
Clause 8
Proposed new paragraph 29I (d)
Page 10, line 29—
Omit the paragraph, substitute the following paragraph:

(d) the operation of equipment for sending messages between a network (including messages sent through a taxi booking service) and taxi drivers; and

6
Clause 8
Proposed new section 31A
Page 14, line 13—
Omit "this Act", substitute "the regulations".

7
Clause 8
Proposed new section 31C, example 3
Page 14, line 25—
Omit the example.

8
Clause 11
Proposed new subsection 51C (1)
Page 25, line 2—
Omit the subsection, substitute the following subsection:

(1) This section applies to a person who, immediately before the commencement—
(a) operated a taxi service (other than a restricted taxi service) within the meaning of this Act; or
(b) was the holder of a restricted taxi operator's licence.