DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

25 September 2002

Wednesday, 25 September 2002

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MR SPEAKER (Mr Berry) 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.

Health—Standing Committee
Reference

MS GALLAGHER (10.31): I move:

> That this Assembly:
>
> (1) recognises that Australia has the highest level of advertising to children, a significant proportion of which is for junk food;
>
> (2) calls on the Standing Committee on Health to investigate the adequacy of Children's Television Standards in their inquiry into the health of school-age children in the ACT.

As a community, the health of our children is very important to us. If we spot a problem developing in the health of our children, we should take a holistic approach to treating and preventing that problem, and that is what this motion aims to do.

The recently concluded New South Wales Childhood Obesity Summit reported that over 5 per cent of Australian children are obese and 14 to 18 per cent are overweight. In the 10-year period from 1985 to 1995, the level of combined overweight/obesity in children has more than doubled in all but the youngest age group of boys, and the level of obesity trebled in all age groups. Clearly, this development in children's health has serious implications for children as they grow and for the community. We need to address the issue from all angles and we need to look at why and how this is happening, implement prevention and treatment programs and tackle the various factors that contribute to this problem.

The increases in childhood obesity can be traced to two broad causes, each of which covers a range of more specific issues. These two causes are: a marked increase in energy consumption by children, generally in the form of sugary and fatty foods, and a marked decrease in physical activity. There are a number of reasons for each of these changes. The increasingly processed nature of our food contributes to the increase in energy intake in children. The generally high fat and calorie content of convenience food, as well as its appeal to children, is also a contributing factor, and an increase in the marketing of soft drinks as a part of meal deals adds a calorie boost with little nutritional benefit.

There are also a range of issues that contribute to a decrease in physical activity, from access issues due to cost and infrastructure, to safety concerns that prevent children from playing unsupervised or walking to school. An increase in television watching and the prevalence of computer games also contribute to sedentary behaviour. It is around television that the two issues of sedentary behaviour and unhealthy eating converge

because, as children are sitting watching television and not exercising, they are being bombarded with commercials for unhealthy foods high in sugar, salt and fat.

Australia has one of the highest rates of advertising during children's television programming and a high proportion of that is for highly processed junk-type foods. If a child watches an average of 2½ hours of television a day, over a year they will watch approximately 22,000 advertisements. Around a third of these ads will be for food, although this can be higher during children's television times. A nutritional analysis of food advertised in the UK found that, overall, 95 per cent of the advertisements for food were for foods high in fat and/or sugar and/or salt. This analysis is broadly consistent with the situation in other countries, including Australia.

Many food advertisements are aimed directly at children, often linking junk food with toys or popular children's television and movie characters. The advertisements frequently include product prizes or competitions and are presented in highly colourful and appealing formats that are specifically designed to attract children's attention. These advertisements are rarely, if ever, countered by messages about healthy eating and the current ABA guidelines for advertising directed at children do not deal with a community responsibility to promote healthy lifestyle practices.

Increasingly, various health organisations are recognising the link between childhood obesity and TV advertising directed at children. The New South Wales Childhood Obesity Summit had, amongst its recommendations, a resolution requesting that the regulatory framework for food advertising directed at children aged nought to eight be reviewed in recognition that food advertising is one of the factors contributing to the prevalence of eating habits that may promote obesity.

Resolution 8.2 of the summit recommended that the Commonwealth government conduct an independent review of the current regulatory framework governing food advertising in the media to ensure, firstly, maximum clarity and effectiveness of regulations and their operation and, secondly, a media environment that promotes balanced, healthy eating and lifestyle choices. A further resolution requested that a systematic scientific review of the potential impact of media and food advertising on diet, physical activity and childhood obesity be undertaken.

Clearly, the motion today is not particularly out of the ordinary. Rather, it is part of a growing realisation that the health of our children is affected by a number of factors and that, where obesity is concerned, we need to take a multifaceted approach and examine all the influences on children's lifestyle choices. In fact, as early as 1982, the Australian Broadcasting Tribunal's national television standards survey revealed that there was a consistently strong community opinion in favour of tighter controls of TV food advertising aimed at children. The links between TV advertising and healthy eating habits are obvious and we need to examine whether advertising standards are as responsible as they should be.

Other countries have recognised that children, because of their innocence and inability to judge critically, deserve protection from advertisers. Since 1991, Sweden has banned advertising directed at children aged under 12 and does not allow advertising at all during children's programs. Norway has similar restrictions. The sponsorship of children's programs is not permitted in Denmark, Finland, Norway or Sweden. Greece

does not permit advertisements for guns, tanks or other instruments of war and bans all advertisements for toys between 7.00 am and 10.00 pm. The European Union's television without frontiers directive, which was last updated in 1997, bars advertising within any children's television program running for 30 or fewer minutes. Despite these restrictions, there are few, if any, restrictions on junk food advertising other than the restrictions that apply to commercials generally.

Australia recognises that children require different standards of television and that they need extra protection from advertisers. The children's television standards recognise that by having specific content and broadcast standards, as well as certain restrictions and requirements for advertising. Despite these standards, Australia has the highest level of advertising to children and, among industrialised nations, Australia has the highest number of food ads per hour and has the highest level, jointly held with the United States, of advertising for sugary breakfast cereal. A substantial proportion of the advertising directed at children is for food, with McDonalds, Nestlé, Kelloggs, Mars and Cadbury being the most prolific advertisers.

Our advertising and broadcasting standards recognise the time when children are likely to be watching television and that children deserve quality, educational and entertaining TV. The standards also recognise to a limited extent that children, being generally more gullible, need some protection from representations made in advertising. The standards also recognise that children should have limited exposure to themes of a violent, sexual or otherwise disturbing nature. There is, however, no requirement that advertisements support educational or healthy lifestyle themes and there is no requirement that there be a proportional amount of free advertising space devoted to community or government messages to promote good health and physical activity.

The current ABA children's television standards, or CTS, sets out both C and P bands as the designated periods when children are likely to be watching television. The C band, which is for children of primary school age, is from 7.00 am to 8.00 am and 4.00 pm to 8.30 pm, Monday to Friday, and 7.00 am to 8.30 pm on Saturday, Sunday and school holidays. The P band, which is for children of preschool age, is from 7.00 am to 4.30 pm, Monday to Friday.

The standards then go on to provide a formula for the number of hours per year a commercial television station must broadcast C and P-rated programs. There are various formulations for when exactly these programs must be broadcast, but they must amount to a total of 390 hours of dedicated children's programming—130 hours a year of P programming and 260 hours a year of C programming. These shows must be broadcast in the relevant band. A broadcaster must designate periods within the band in which the broadcaster will not broadcast anything other than C or P-rated programs and the advertising restrictions relate only to these periods, not to the whole band.

Standard 13.2 states that there will be no advertisements during P periods. That means that for half an hour each weekday there are no advertisements broadcast, despite the fact that the P band is 9½ hours long. This is because the restriction applies to the period, not to the whole band. There is a lesser restriction for the C period, in which there can only be five minutes of advertising during each half hour. However, a closer look reveals that this restriction does not apply after 6.00 pm and that Australian children's drama

programs broadcast between 6.00 pm and 8.30 pm are allowed a maximum of 13 minutes per hour of advertisements and promotions.

Even if all of the 260 hours of C programming were broadcast before 6.00 pm, there would still be nearly 44 hours of advertising per year that a child would be exposed to just from watching less than an hour of TV a day. If we assume that each advertisement was 30 seconds long, there would be around 5,200 advertisements per year that a child would see. If a station decides, as it is allowed to do, to show half of its C programming after 6.00 pm, there would be nearly 50 hours of advertisements per year, equalling a possible 6,000 advertisements per year.

The restrictions on content in commercials refer to the requirement that the material not be demeaning, distressing or frightening, or depict unsafe uses of products or unsafe situations. There are also restrictions on advertising alcohol and sections that regulate pressure in advertisements and clear presentations about the product or service.

Whilst a child's diet is primarily a parent's responsibility, as a parent, I would appreciate it if the messages that my child is exposed to when she watches TV do not consistently promote unhealthy eating choices. Parents all want to do the right thing by their children, but it makes it easier if when we do the right thing we are not struggling against a tide of slick corporate advertising directly aimed at our children.

We acknowledge that childhood obesity is an increasing problem, with a number of health ramifications into the future, and we have accepted that a holistic approach is required to deal with it. I think that a sensible approach should also be to examine the messages that children receive and look at whether the protection we offer children's innocent sensibilities should not be extended further in relation to the advertising of food. Now is the time to undertake such a review. We have an increasing awareness of the health problems faced by our children, but we have not yet reached the point where advertisers are responsible for a large proportion of our children's programming.

In Europe, for instance, where there is increasing pressure to follow in the steps of Sweden and Norway and not allow any television advertising directed at children under 12 years of age, there is a fear that such a move would reduce the quality of children's programming as children's programming is substantially funded by revenue from the advertising sector. I would hate to see a similar situation in Australia where we were so reliant on the revenue of advertisers to provide funding for children's programming that advertisers were able to dictate our policy on children's television advertising standards.

As members of the community, we do have a responsibility to our children to deliver both positive health messages and outcomes and an environment conducive to these messages having an effect. TV does play a large part in the lives of many children, both as a source of entertainment and information and as a potentially negative influence on their health. I think that it is appropriate to add the voice of the Assembly to the voice of the New South Wales Childhood Obesity Summit in calling for a thorough review of the advertising standards for children, with a view to promoting healthy lifestyle messages.

I amended the motion placed on the notice paper after discussions with Ms Tucker, as the chair of the Standing Committee on Health. I believe that the standards need to be reviewed, but I am happy with the adequacy of the standards being inquired into by the

standing committee looking into the health of school-age children in the ACT, which can then report back to the Assembly. The only thing I would like to bring to the attention of the Assembly in this regard is that the standards are national standards and are not restricted to school-age children, but regulate preschool-age viewers as well.

I urge members to support this motion.

MR PRATT (10.44): Mr Speaker, I rise to talk in support of Ms Gallagher's motion. In principle, I support what Ms Gallagher is trying to achieve. I commend her for acknowledging that there is a problem with the high consumption of junk food by Australian children. Mind you, Mr Speaker, I do find it a tad ironic that this is a Labor motion, given the recent criticism of me in particular by Mr Corbell for advocating healthy tuckshop standards, but let us put that to one side. I have been extremely disappointed with the lack of interest that the government has shown in the problem of childhood obesity thus far and see this motion as a step, albeit a very small one, in the right direction.

Mr Speaker, in the past two decades the number of obese Australian children has doubled. Without change, half of our children could soon be overweight. This is an alarming fact, one which deserves the government's serious interest. There are many problems which stem from childhood obesity and the lack of physical fitness amongst school-age children. For the child, these include the obvious physical difficulties, lack of self-esteem, lack of motivation, victimisation by peers and depression, as well as numerous other behavioural problems and health problems.

Mr Corbell: I rise to a point of order, Mr Speaker. Ms Gallagher's motion is about television advertising standards as they relate to junk food. It is not a motion about childhood obesity. There is a motion on the notice paper for later this day which deals with childhood obesity and which Mr Pratt will be moving. Mr Pratt has to focus on this motion, not his own motion for later this day. I ask you to draw his attention to relevance, Mr Speaker.

MR SPEAKER: It is important to remain relevant to the motion before the chamber, Mr Pratt. If you could do that, it would be very helpful.

MR PRATT: Mr Speaker, on the point of order: I was just providing the background that I need to provide to this serious issue. I will be getting to the fundamental issue of the motion now.

MR SPEAKER: That is good.

MR PRATT: Mr Speaker, if the standing committee finds that there are not adequate standards in relation to children's television advertising and if it can be determined that there is a link between this inadequacy and childhood obesity, then this will be a matter for further investigation. Like Ms Gallagher, I am concerned with the impact of junk food advertising during children's television viewing time. While the responsibility for the quality of television watching begins at home with the parent, there is no doubt in my mind that a responsible community has a general role to play in supporting families, as well as our school system.

Therefore, the community will need to have a rethink on the impact of television, given the rapidly growing problem of childhood obesity. The community and, indeed, government need to have a rethink on the comprehensive approach to standards in school, as I have pointed out, as well as take a look at the impact on health assessments and standards with respect to television advertising. Mr Speaker, to that end, I support the motion and I commend the principle that has been outlined.

MS DUNDAS (10.47): I thank Ms Gallagher for bringing to the attention of the Assembly this motion regarding the effects of advertising on children. I would like to talk about the effect of TV advertising on the mental health of our young people, particularly its links to both anorexia nervosa and bulimia.

Some research has been done in recent years on the effects of advertising on stereotyping body image. The figure for the exposure of children to advertising is amazing, with the average child watching about 2½ hours of television a day, equalling between 22,000 and 28,000 ads per year. A number of studies have shown a marked link between eating disorders and television.

The June 2002 edition of the British *Journal of Psychiatry* reported a study by Dr Anne Becker, representing the first known investigation of television's impact on eating disorders in a small-scale indigenous society undergoing rapid change. In effect, the number of girls who said that they had induced themselves to vomit to control their weight went from zero to 11.3 per cent in just over three years. Two studies by South Australia's Flinders University published this year also showed that television advertising featuring idealised thinness negatively affected both the mood and the body image of adolescent girls, with those in the 13 to 15-year age group being most affected. Those are just three of many studies linking advertising to body image and eating disorders.

There is also debate in the medical literature as to the problem of child obesity and its relationship to TV advertising. The Garvan Institute has done some studies into the genetic links of obesity. Whitaker, writing in the *New England Journal of Medicine*, provided evidence that the level of childhood obesity in early childhood does not appear to be linked to adult obesity and, further, that children with obese parents run more than double the risk of adult obesity.

Mr Speaker, it is true that the rates of both child obesity and eating disorders are going up, so healthy weight and high self-esteem must be the goal. Parental supervision of TV viewing, valuing children for whom they are, involving them in healthy activities and leading by example all seem to do much to help promote healthy weight and the high self-esteem that we are aiming for. I am not certain that regulating advertising would put an end to eating disorders or child obesity, but that would be something for the Health Committee to investigate under this motion.

MS TUCKER (10.50): As chair of the Health Committee, I welcome this motion from Ms Gallagher. We have already received evidence from particularly young people on junk food. Also, they are interested in knowing why it is that certain additives that have a stimulant effect or whatever are allowed in foods, particularly in drinks. From recollection, it was raised that young people are very curious about why our society continually condones the promotion of substances which are unhealthy for them. That

was the basic question that came out of a number of forums that we held with young people, and it is a good question. The question that Ms Gallagher has raised today regarding advertising is quite relevant to that question. I think that it would be useful for us to take particular notice of the advertising standards, even though they are a national responsibility, because it is clear that they have an effect on people in the ACT.

I did not quite understand Mr Pratt's criticism of government. I thought he was saying that it had no interest in obesity, but I am sure that he would not have said that. The whole Assembly has clearly indicated an interest in this issue by supporting the referral to the committee of an inquiry into the health of school-age children, which does include preschool-age children. It is pretty obvious that everyone in this place is interested in and concerned about this matter, so I do not think that we need to get political about it. The committee is doing the work and the work is fairly well progressed. I am happy to take on this extra reference. I think it is entirely relevant to do so.

The thing with junk food is that it is not just about television advertising; it is also about its availability. As you are going out of any supermarket you will always find little temptations made available. Those of us who are parents know about the situation at the checkout where you have a child or several children with you who are noticing the wonderful array of sweet stuff that is very well placed to inspire purchases by the mothers or fathers who need a little bit of peace while they are trying to get through the checkout before they go home. There are all sorts of ways other than television that junk food is really pushed on kids and parents.

Ms Dundas' comments about body image are important as well, although not strictly relevant to this motion, as not only advertising but also the media generally and many other societal influences have an extremely serious impact on body image. Self-esteem and body image have to be seen as an extremely important aspect of the health of young people. As we are all well aware, they can bring about a significant illness—in fact, a mental illness—in many young women and an increasing number of young men. I understand that children—not just young men and women, but also children—as young as primary school age are now affected by the idealised thinness phenomenon.

That has been coming across to our committee very strongly from the young people themselves. The question of fitness testing which will come up briefly later with Mr Pratt's motion also has relevance to this subject and the committee has received quite a lot of evidence from young people, rather than adults, about the impacts of this sort of response. I am looking forward to doing this extra work on the committee and hope that the committee will be able to produce a report which will be of use to the government in terms of dealing with the health of school-age children.

MS MacDONALD (10.55): I would like to thank Ms Gallagher for moving this motion. I agree that it is on a very significant issue. We all know that television and advertising have a considerable impact on our lives. The experts differ in their opinions on how persuasive TV advertising is, but we do know that it is significant for both adults and children, having a significant impact on adults, let alone children.

I do remember as a child a ban being placed upon cigarette advertising on television and then later on billboards. First, it was on the TV ads and then on any sponsorship showing up on television or in sports broadcasting. That was done was because we became aware

of the harmful effects of smoking and came to the recognition that smoking should not be promoted. In the same way, I think we need to consider the impact of junk food advertising.

Ms Gallagher made reference to what has been done in Sweden and Norway. I remember meeting a Swedish girl when I was around the age of 9 and I recall that, as well as having bans on that sort of thing because there was a recognition that eating too much junk food was not good for young bodies, Sweden also had at that stage more draconian legislation about what parents could and could not feed their children. I believe that it actually had laws which said that a certain amount of junk food was not allowed.

I know that children in Singapore who are found to be overweight are put on programs, but I do not think that we need to be going down that path because Australia does not have a reputation for imposing legislation in that regard which regulates to that extent. But we do need to have great concern about the falling nutritional standards in this country, the fact that it is not just the kids out there who are eating all the junk food, but their parents as well. Why is that so? Is it that the parents are getting the same messages from the advertising? Also, parents do not necessarily know how to prepare nutritional meals any more because information is not going out through advertising and other programs on how to actually prepare healthy meals for themselves and their kids.

The other day the Health Committee, as part of its inquiry, got to hear about the funky foods program which goes on in the Belconnen area and is aimed at promoting healthy food to kids as funky and something that is important for their bodies and will make them feel better. I am pleased that Ms Gallagher has put this motion on the notice paper, because we do need to combat the rising levels of problems with nutrition, obesity and all the things to do with not actually having a healthy diet and not getting enough exercise, et cetera, which is all tied up with the advertising of junk food. We do need to introduce standards in terms of advertising for junk food.

I commend the motion to the Assembly.

MR SMYTH (11.00): Mr Speaker, I join my colleagues on the Health Committee in welcoming the broadening of our inquiry into the health of school-age students in the ACT. It is a very important inquiry and, as said by Ms Tucker and Ms MacDonald, it is progressing well. This is not something that was included in the initial terms of reference because, quite clearly, it is outside the scope of the ACT's legislative powers. But, that being said, it is certainly not something that we should shy away from. I look forward to the possibility of making recommendations in the future that this Assembly ask the federal government to look at what we have discovered in the ACT and hope that we will take the opportunity to call on the federal government to contribute to the debate by following the example of what has occurred overseas.

As Mr Pratt said in his speech, one of the drivers on the question of obesity of young Australians in this day and age is how much the advertising of junk food, breakfast cereals and other things in those prime time slots that are deliberately aimed at children is contributing to their obesity. I think we need to take that into account by adding that to the committee's inquiry and then using it as a springboard to address the issue nationally. This is certainly something on which the ACT can lead and should lead. I welcome the

broadening of the terms of reference of the inquiry of the Standing Committee on Health into the health of school-age children in the ACT.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (11.01): Mr Speaker, I rise briefly in this debate to indicate the government's support for Ms Gallagher's motion. It is an important motion because it does highlight not only the significant issue of advertising standards for children and young people in Australia, but also the broader issue of how media regulation is handled in Australia.

In an age in which all the indicators show that governments, particularly federal governments, are moving away from having a more prescriptive approach to media regulation, it is necessary to reaffirm the importance of taking a more proactive stance when it comes to issues around advertising standards and the impact that they may have on children and young people.

Childhood obesity is an issue in our community as much as it is an issue in other communities in Australia and, indeed, right around the developed world. There are no quick or easy fixes to this issue. It is a reflection of changed lifestyle patterns, changing patterns of behaviour within families, changes in family size and how they interact, and changes in cultural expectations. Those are big issues for our community to face, as much as any other issue, so to roll out simplistic ways of addressing this issue, which Mr Pratt alluded to in his speech, is not the way to proceed.

Ms Gallagher has raised a very important point in saying that we must take account of television advertising standards in looking at the health and wellbeing of children in the community. The government welcomes Ms Gallagher's approach. Equally, it will be looking forward and responding in detail to any issues that the standing committee raises on this matter and the other matters on which it will be reporting.

MS GALLAGHER (11.03), in reply: The existing standards for children's television require quality, educational and respectful TV programming for our children. They require that programs aimed at children have a minimum Australian content and have not been repeated too often. They dictate that programs should not be demeaning, racist, sexist, frightening, violent, alarming or likely to encourage unsafe behaviour. These requirements also apply to commercials screened during these programs.

Clearly, we want the television watched by our children to reinforce messages that we give our children about respect and tolerance, but there are no rules requiring TV programs or advertisements to reinforce or at least complement the messages we send about health and nutrition. The ABA's children's television standards really are minimal. They apply to a total of 360 hours of TV per station per year. I have no doubt that they were established with all the good intentions in the world, but they have not prevented Australia having the highest rate of TV advertising directed at children.

To this point, we have screened children's TV content for violence, sex and language, but not for negative health messages. This has resulted in Australia having the highest rate of food advertising, most of which is for foods high in fat, sugar or salt. Consistency would dictate that our children's physical health is as important as their mental health and that we should protect our children from influences that could have negative impacts

on their health. We need to review existing standards for children's television programming with a view to protecting the health of our children.

I look forward to the results of the inquiry being undertaken by the standing committee into the health of school-age children and I thank members for their contribution to this debate this morning.

Question resolved in the affirmative.

Insurance Compensation Framework Bill 2002

Debate resumed from 21 August 2002, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

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

Legal Practitioners Amendment Bill 2002

Debate resumed from 21 August 2002, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

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

Adventure Activities (Liability) Bill 2002

Debate resumed from 28 August 2002, on motion by **Mr Smyth**:

> That this bill be agreed to in principle.

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

Nurse practitioner accreditation program

MS DUNDAS (11.07): Mr Speaker, I seek leave to amend my notice to omit paragraph (1) and substitute the words "help support general practitioners in the ACT".

Leave granted.

MS DUNDAS: I move:

> That this Assembly calls on the ACT government to move on from the ACT trial program and establish a nurse practitioner accreditation program similar in scope to the program operating in NSW, to:
>
> (1) help support general practitioners in the ACT;
>
> (2) demonstrate that the ACT community respects the qualifications and skills of our nurses.

Mr Speaker, this motion calls on the ACT government to accelerate the accreditation of nurse practitioners to help address Canberra's growing GP shortage and to tackle the problem of nurses leaving the profession due to limited career paths and a lack of recognition of their skills.

I have received many letters from Canberrans highlighting the general practitioner shortage in Canberra, especially in Belconnen and Tuggeranong, as I am sure have other members of this Assembly. After-hours access to GPs is a particular problem.

The Minister for Health has been making sympathetic noises about the GP shortage but has claimed that the problem is in the hands of the federal government. To date, neither the ACT government nor the federal government has put forward any proposals that satisfy me that this problem is being adequately addressed.

I have been discussing possible solutions to our GP shortage with members of the health profession. I have been told that doctors' time is often consumed by tasks that university-trained nurses are well skilled to perform, and nurses are insulted that they are not being recognised as able to perform these roles.

In our hospitals nurses already make recommendations about changes to drug dosages, but a doctor's sign-off is required before changes can be made. Nurses often take pathology samples, but a fiction is maintained that these samples are taken under the supervision of a doctor, even when the doctor may be less knowledgeable about best-practice sampling procedures. To remove unnecessary supervision from highly qualified nurses would free up doctors' time in all parts of our health system.

There has been a great deal of discussion in the national media in recent times about a national and even international nurse shortage. Most reports have identified that the problem is not that we have insufficient trained nurses but that nurses are leaving the health system to work in other areas. The national review of nursing education released last week found that nurses were leaving the profession in droves because they feel their knowledge and skills are not respected, that their career paths are limited and that they are not paid a wage in line with their skills. Increasing the number of nurses being trained is not going to fix the nurse shortage unless retention is also improved dramatically.

Nurse practitioner programs have the potential to provide a more rewarding career path for nurses and to provide the recognition nurses are looking for. The New South Wales government has gone ahead with a system to accredit highly qualified and experienced nurses as nurse practitioners who have referral and prescribing rights in their areas of speciality, to do away with some of the fictions that exist in our medical system. Victoria has moved in the same direction, by establishing accreditation of nurse practitioners to take pathology samples. With the ACT still at a nurse practitioner trial stage, it appears that we have fallen behind.

A trial of nurse practitioners began under the last government, and very positive progress reports have come out of it, but we still await the final report and the government has not yet declared whether it will support a full accreditation program. I hope they will today.

Nurse practitioner schemes allow GPs greater time, as they work in collaboration with nurses and nurse practitioners, to focus on what they are trained for. My motion, which I discussed with other members of the Assembly, makes this clear. The motion calls for the Minister for Health to establish a nurse practitioner accreditation program similar in scope to that running across the border in New South Wales. Because it can take a substantial length of time to establish such a system, I also hope the government will explore the idea of accrediting ACT nurses through the New South Wales program, which has been running with much success, until a scheme of our own is up and running.

I commend this motion to the Assembly.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (11.12): Mr Speaker, the government supports the thrust of the motion Ms Dundas has moved, to the extent that it highlights an important issue and draws attention to a very significant trial that has been undertaken in the ACT in relation to the potential for establishing or developing a nurse practitioner accreditation program in the ACT. It is appropriate that we talk about that.

As Ms Dundas has said, the ACT has just completed a trial of nurse practitioners, but the report of the steering committee that was established to oversight the conduct of the trial has not been completed and has not been received by the government. That is the difficulty I have with Ms Dundas' motion.

Ms Dundas is asking the government to implement a nurse practitioner program in the ACT on the basis of a trial that was undertaken but evaluation of which has not yet been completed. The government has not received an evaluation report. The motion pre-empts the trial and its outcomes. It is not appropriate for this Assembly to call on the government to implement a nurse accreditation program on the basis of a trial that is yet to be evaluated and reported on to the government.

It is not appropriate to ask me as the Minister for Health to implement a nurse accreditation program here based on a model that has been utilised in Sydney. The assumption is that despite the fact that we have conducted a trial and put in place an evaluation methodology we should ignore the evaluation, not wait for a report and not look at the outcomes or findings of the evaluation to inform our decision-making.

I applaud Ms Dundas' interest in this issue. It is a very important issue. I have no reason to believe that it will not produce the results Ms Dundas ascribes to it and hopes it will produce. I would have the same view as Ms Dundas. There are potentially enormous benefits in the implementation of a nurse practitioner program in the ACT. It has the potential to achieve some of the benefits that are ascribed to it by others and have been described by Ms Dundas. So I would hope that we will be in a position to proceed positively with nurse practitioners in the ACT.

As Ms Dundas has said, New South Wales has created three nurse practitioner positions in the Sydney metropolitan area. Such developments should be considered, but they need to be considered in light of the findings of the ACT trial, and we would need to proceed on the basis of what model would suit the specific circumstances in the ACT. We would need to hold discussions with the University of Canberra, which is the major centre in the ACT for the training and education of nurses, and with the Nurses Board of the ACT.

There certainly is a shortage of GPs. Ms Dundas quite rightly points to the potential for nurse practitioners to alleviate some of the workload and issues faced by general practitioners in their work. I understand that we are between 50 and 60 GPs shy of the national average per capita coverage of GPs. There is a whole range of other health professional services that might be assisted by the availability of nurse practitioners.

Ms Dundas touched on one reason for the enormous leakage of nurses from the health work force in the ACT, around Australia and perhaps worldwide. It is something elected representatives and communities must address. Communities in Australia and perhaps worldwide do not accord nurses the respect their profession, professional qualifications and professional qualifications demand. We demonstrate that through traditional levels of pay. We demonstrate it through a traditional disregard for nursing as a profession. That certainly is an issue this government is determined to address.

I agree entirely with Ms Dundas in her determination to highlight the importance of the nursing professional to the delivery of health care and the functioning of the health care system. Nurses constitute about 70 per cent of the nursing work force. They are an enormous component of the nursing work force. The systems would simply collapse without the dedication and commitment of nurses to health care delivery. That is a position we do not acknowledge often enough. In fact, we have a tradition of putting down nurses. I remember in debates in the previous Assembly the sneering disregard for nurses, for the ANF and for nursing as a profession by previous ministers for health. We have turned that around with our attitude to the nursing profession and the importance of nursing. We reflected that through our determination to end the very divisive and debilitating industrial dispute that occupied much of the last Assembly.

I support the thrust of this motion, but the government cannot support a motion which calls on it to implement a report that has not yet been written and the government has not received. Given the progress reports we have received along the way and the general acceptance which I know exists within the public service about the success of the trial, I have no doubt that we will be responding positively to the report.

I cannot commit the government to implement a report that has not yet been written and has not yet been received by me. I do not have the benefit of the advice of the nurse practitioner trial steering committee which is preparing the report. So I am proposing an amendment, which I will circulate as Mr Smyth speaks, calling on the Assembly to note that the ACT government has conducted the trial and that we will examine an accreditation program and undertake to report to the Assembly on that when the report has been received and the government has had an opportunity to respond it. The government supports the thrust of the motion, but I do not believe it is appropriate for the Assembly to call on the government to implement a report that it has not received.

MR SMYTH (11.22): Mr Speaker, I thank Ms Dundas for bringing this very important issue to the attention of the Assembly. It is something the previous government took very seriously. We were the government that established the trial, which has now been completed.

Mr Stanhope made the point that it is inappropriate for us to call on the government to do something. That is what we are here for. We are the watchdogs. We are the parties that keep the government on their toes. Given the inactivity of the government, it is more than appropriate for us to say, "Get on with the job."

The trial established by the previous government included surgery. In the absence of a government announcement about what was happening and the timeframes, I checked with the previous health minister, and he said that in his view, on the information he had been given, it was a very successful trial. It achieved everything we had hoped to achieve, perhaps even more.

The motion calls on the ACT government—not directs, not urges—to get on with doing the job, a job the part-time Health Minister seems to be loath to do. It is about focusing on the need of Canberrans. The next step is to do something positive to establish a scheme for nurse practitioners.

I have some concerns with the motion as it reads, but Ms Dundas allayed those fears in what she said. The motion contains the words "a program similar in scope to the program operating in NSW". I would like to see a program best suited to the ACT and not just lift the New South Wales model.

Ms Dundas said she would like something operating quickly. I have no difficulty with that. She suggested we use the New South Wales model until we develop our own, which hopefully would be a much better model. I do not have a problem with that as a step in the right direction, but as long as it is recognised that the Liberal Party are saying that we need to develop a model for the nurse practitioner that suits the needs of the ACT community. We are a very different community to New South Wales.

The aim of the program we put in place was to improve medical outcomes for Canberrans. The record of the government over the last 12 months seems to indicate that they do not care about the outcomes. We have to ensure that the money we spend and the programs we put in place are not wasted but are effective so that we do not see a reduction in outpatient services or a blow-out in waiting lists but more outcomes for Canberrans. One way to achieve that is to have a nurse practitioner program in place. We believe that will deliver better medical outcomes.

Paragraph (2) of the motion reads:

> demonstrate that the ACT community respects the qualifications and skills of our nurses.

I heartily support that as somebody who spent two months in the Woden Valley hospital, I was cared for very well by the doctors, but the majority of my care was provided day in and day out, night in and night out, by the nurses. I have nothing but the utmost respect for our nurses. Anything we can do to acknowledge their skills and their ability and show that we as a community respect what they do we should be doing.

This is an entirely appropriate motion. It is important. It refers to work we started when we were in government. Little seems to have occurred since the government changed. For the Assembly to call on the government to get on with establishing such a program is appropriate, and the Liberal Party supports the motion.

MS TUCKER (11.26): I support this motion and probably Mr Stanhope's amendment, which I have not seen. A nurse practitioner in the ACT is defined as:

> a registered nurse working with a multidisciplinary team whose role includes autonomous assessment and management of clients using nursing knowledge and skills gained through advanced education and clinical experience in a specific area of nursing practice.
>
> The role may include but is not limited to the direct referral of patients to other health care professionals, the prescribing of a designated and agreed list of medications, the ordering of designated and agreed list of diagnostic investigations.

That definition is from the ACT department of health website on the nurse practitioner trial.

In essence, nurse practitioners are specialist nurses in a particular area who are authorised to do some autonomous work in that field. Nurse practitioners' place in the health care system is alongside GPs, hospitals and community health care programs.

I understand that a New South Wales trial of a nurse practitioner working in a GP surgery found that working in this collaborative way considerably increased the health of some of the elderly patients of that practice. Nurse practitioners were able to follow up, spending more time on things like wound care, and were able to pick up through that work some issues that needed GP attention.

There has been increased interest in Australia in using nurse practitioners in the health system since the early 1990s. The trial here began in 1999. It involved training up, on the job, four nurses in specialist areas, supported, supervised and reviewed by a multi-disciplinary clinical support team. Various data were collected as they were trained and worked.

The four specialty areas were mental health support, within the context of Calvary Hospital; sexual health outreach, from hospital and at brothels and beats; military nursing; and wound care. Although the military program was stopped because of time constraints, I understand that there is strong support within the military for developing the nurse practitioner role within the services.

The sexual health outreach trial demonstrated how nurse practitioners can fill gaps, to reach groups of people who are not accessing the existing health care system. This nurse practitioner was accepted as an outreach worker in brothels and by this work was able to prevent outbreaks of sexually transmitted diseases. This group of people would not accept a GP setting up practice in their area and were not regularly accessing the preventative health care systems.

The trial included gathering evidence on education needs, which is a new part of the trials conducted elsewhere and will contribute to an evidence-based training program in the ACT. I understand that the government will be shortly receiving the final report. I am grateful to Professor Glynn Gardner for explaining aspects of the trial to us.

I understand Mr Stanhope's concerns. He has not formally received the report, or maybe he has not seen it at all. My understanding is that it is positive and includes recommendations for training and accreditation and changes to laws. This motion is timely, in that we can lend our support to the government to progress this work, although I do understand Mr Stanhope's concern about the process and some of the wording. I also hear quite clearly from him that he is very supportive of the essence of this motion, so I do not think we have a problem.

I am pleased that Ms Dundas amended her motion after we requested her to reflect the collaborative way nurse practitioners will work with general practitioners. It is important that we stress this collaborative relationship, because there is a fear from general practitioners that nurse practitioners are trying to replace them. But as the two examples I have given here show, this is really not the point. It is about improving our health care system by recognising some of the work that nurses already do and by enabling the specialist advanced-practice nurse—through extra training, accreditation and standards—to enhance our overall health care system.

Accreditation and registration systems, which we do not yet have here, ensure that only qualified nurse practitioners may call themselves that. The only acceptable meaning of nurse practitioner will be as the Nurses Board understands and accredits it.

Ms Dundas has specified in her motion that the Assembly would like the scope of an ACT nurse practitioner system to be similar to that in New South Wales. This is an important point. It is to emphasise that we recognise the utility of nurse practitioners being able to prescribe certain medicines in their field of expertise and to have a level of autonomy in their field of expertise.

Nurses are an important part of health care and always have been. This next step will provide a better career path for nurses and help to develop our health care system at a time when we need it. This could also show us the way to better accept midwife practitioners in our health system. Some members of the medical profession are reluctant to acknowledge the capacity for enhancing delivery of health services by supporting nurses who have the skills to make an extra contribution.

Obviously the government will need to take into account the evidence in the report and to consult to develop understanding of the nurse practitioner role in the health care community, including in the community services, and to finetune the model, which is what Mr Stanhope no doubt will do when he sees the final report.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (11.33): I seek leave to move the amendment circulated in my name.

Leave granted.

MR STANHOPE: I move:

> Omit all words after "That", substitute the following:
>
> "this Assembly notes the ACT government has conducted a nurse practitioner trial to examine an accreditation program and has undertaken to report to the Assembly when the evaluation of the trial is complete.".

MS DUNDAS (11.34): It is disappointing that the government and, through the government, the Assembly are still awaiting the outcome of the ACT nurse practitioner trial. Information from the government said that the report would be available in May 2002. It is now September 2002, and I have been told repeatedly over the last month that the report would be available soon. We hear again today that the report will be available soon.

The intent of my original motion was not to pre-empt any outcome but to get things moving. The government has made much about their increased spending in health since starting their term. Almost one year into their term we have not seen any outcomes.

The motion notes that the ACT government has conducted a nurse practitioner trial and calls on the government to report to the Assembly when the evaluation of the trial is complete. That is what I would think the government would do anyway. A motion calling on the government to do its job seems a little unnecessary.

The intent of my original motion was to call on the government to have a nurse practitioner program. The style and scope of that program was not defined or confined by the original motion. It left room when the final report was available, a report that was meant to be available in May, to determine how the ACT model would operate and what it would look like. In the meantime, we could look at immediate solutions to the problems and crises facing the ACT community.

As the Chief Minister has said, we are suffering a huge GP shortage. Over the last 12 months we have seen a lot of problems in the ACT with regard to nurses, their pay and the respect they are afforded. The nurse practitioners scheme, which was first established as a trial in the ACT in 1999, is a way of ensuring that nurses feel valued and respected and allowed to do the job they know they can do to help care for the people of the ACT.

Let us get something done. Let us take the information from the report and use it to build a nurse practitioner scheme for the ACT. The amendment moved by Mr Stanhope does not talk about getting anything done. Mr Stanhope made the comment that just because New South Wales have done it we do not necessarily know that it would be right for the ACT. That is why my motion talks about it being similar in scope. That could be redefined by the outcome of the trial.

I am committed to seeing a nurse practitioner program work here in the ACT. The reports from our trial show that it works. The moves taken in New South Wales and Victoria show that it works. If we follow New South Wales or Victoria's lead in other areas of legislation, why can we not do it in our health care system with nurse practitioners and something that works?

I am not happy with the amendment moved by the Minister for Health. I would prefer to see an commitment from this government to do something to fix the problems facing the health care community in the ACT.

MR SMYTH (11.38): The Liberal Party will not be supporting the amendment, because the government has to do this anyway. The government will get a report and it will make it public. Thank you for your affirmation that you are going to carry out the things you will do. As Ms Dundas has pointed out, this is about making a difference. This is about making a decision and doing something. We would rather see something happen.

MS TUCKER (11.39): I will support this amendment. The Chief Minister has made it quite clear that he is supportive of the general intention. He has a problem with the wording of this motion. It is pre-emptive. He has not seen the report. It is more a procedural issue, as far as I can see.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women): I seek leave to speak again.

Leave granted.

MR STANHOPE: For the record, I want to confirm the government's position. The government has no objection in principle to the notion of nurse practitioners operating in the ACT. There is a process issue here. I do not think it is appropriate for this Assembly to be calling on the government to implement the outcomes of a report which has yet to be written and which I have not seen. It is a nonsense way to proceed. I accept the spirit in which the motion was moved today. I have no difficulty with that at all. I do not object in principle to anything Ms Dundas has said or to the spirit in which she has brought this matter before the Assembly today.

My position relates to process. I cannot accept on behalf of the government a motion which calls on me as the minister to do something—

Mrs Dunne: Heaven forbid that the government should do something.

MR STANHOPE: We know the Liberal Party's position on ignoring reports and not calling for reports. We need to go back and have a bit of a think about Bruce stadium. Let us talk about Bruce stadium and the Liberal Party's attitude to implementing reports that were not written.

Mr Smyth: I take a point of order, Mr Speaker. This is the Jon Stanhope "I cannot think of a better answer" defence. He should be relevant to the argument.

MR SPEAKER: I think there has to be some connectedness there.

MR STANHOPE: There is not. I will conclude. I do not want to take up the time of the Assembly. It is a very busy program today, and I am sure we are all keen to get through it. We have commissioned a report. The previous government established a nurse practitioner trial steering committee. I congratulate them for that. This is consistent with the Liberal Party's approach. The Liberal Party now thinks we should ignore the nurse practitioner trial steering committee. We do not need to listen to it; we just need to go

ahead. We need to second guess. We need to assume that they will support the establishment of a program. We need to just guess what the model should be and we need to go out and do it. We do not need to receive the report. We do not need to listen to the experts we appointed. We just have to do it.

This is exactly what the Liberals did with the $80 million of taxpayers' funds they expended on Bruce stadium. They had experts available, but they chose not to listen to them. They had reports available, but they did not bother to read them. They did not wait for them to be delivered before they went off and broke the law by spending moneys that were not appropriated. That is the Liberal Party approach. I guess they are being consistent. You have to acknowledge that they are being consistent. They say, "Ignore the advice you have. Ignore the reports you either call for or do not call for. Just do it."

Question put:

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

The Assembly voted—

Ayes, 8		Noes, 6	
Mr Berry	Mr Stanhope	Mr Cornwell	Mr Stefaniak
Ms Gallagher	Ms Tucker	Ms Dundas	
Mr Hargreaves	Mr Wood	Mrs Dunne	
Ms MacDonald		Mr Humphries	
Mr Quinlan		Mr Smyth	

Question so resolved in the affirmative.

Amendment agreed to.

Motion, as amended, agreed to.

Passive smoking

MS MacDONALD (11.47): I move:

> That the Assembly:
>
> (1) recognises the right of all workers to have a smoke-free environment;
>
> (2) notes that the *Smoke-free Areas (Enclosed Public Places) Act 1994* relies heavily on key exemption criteria AS1668.2, which has been altered and weakened by Standards Australia;
>
> (3) notes the exemption system in place under the *Smoke-free Areas (Enclosed Public Places) Act 1994* has created inconsistencies between the Act and the Smoke-free Workplaces Code of Practice pursuant to the *Occupational Health and Safety Act 1989*;
>
> (4) notes the increase in successful legal and compensation claims by people who have suffered passive smoking-related diseases and conditions; and
>
> (5)

(6)

(7) calls on the ACT Government to address concerns raised by the accumulating information about the harmful effects of passive smoking and about the limitations of ventilation systems to provide effective protection from tobacco smoke.

To put it simply, smoking kills. Smoking kills thousands of people a year and places strains on our health system, and it costs the local and national economy money, which we just can't afford. And to make things worse, we are allowing many hundreds of employees in the ACT to work in a hazardous environment. We are allowing them to work in an environment which we can control. ACT governments in the past, as well as governments right around the country, have not taken and are not taking the dramatic steps needed to address the issue. Let us not fool ourselves: the debate will be watched closely by the public and any following action will cause many in this Assembly to feel the heat of the tobacco industry and also possibly hospitality representatives.

Mr Speaker, you would know the Labor Party has always opposed the exemption system. In researching this issue, I was able to locate the dissenting report from former MLA and now federal MP, Annette Ellis, to the report of the Standing Committee on Conservation, Heritage and Environment on the Smoke-free Areas (Enclosed Public Places) Bill. In her report, Ms Ellis made some observations about Australian Standard AS1668.2, which refers to the ventilation requirements of public places seeking exemption from smoke-free regulations. In 1994, eight years ago, Ms Ellis said this:

> I disagree with the Committee's application of AS1668.2, which relates to ventilation requirements. I do not accept that the Committee has been provided with sufficient evidence for it to conclude that this standard was intended for, or can be reasonably used for, the public health regulation of ETS exposure in indoor environments.

Further to that, the dissenting report from Ms Ellis said this:

> While I accept the use of AS1668.2 as a reasonable standard for ventilation for all mechanically ventilated buildings, I also conclude, from evidence presented to the Committee, that it would be inappropriate to rely on AS1668.2 as a health-based standard with reference to ETS.

ETS, for those members who are unaware, is an acronym for environmental tobacco smoke. This is probably the most important point for members to understand.

The 1994 bill, and therefore existing regulations, is based on a flawed premise that a decent airconditioning system is going to protect workers. It does not. In fact, we now find that Standards Australia have weakened the ventilation requirements by about 30 per cent. This means that exempted premises will have more polluted and more dangerous air. That standard, which so many people rely on for their health, is not and never was a health-based standard. It has always been a comfort-based standard. Unfortunately for those victims of passive smoking-related illness, a comfortable environment does not equate to a safe and healthy environment.

Michael Moore and Kate Carnell were completely manipulated and misled by the tobacco industry when the debate was held nearly a decade ago in this place. Non-smoking advocates knew it then, and the groundswell of information now available

means that the broader public knows it now. However, I am happy to concede that the measures taken in 1994 were an evolutionary step, not a revolutionary step. It is clear that the time is right for the next step in the evolution of smoking laws.

Mr Speaker, it is my understanding that the government has received advice that the government would not be held legally liable for passive smoking-related claims resulting from exposure in exempted premises, even though it is responsible for granting these exemptions. Given the rapidly evolving nature of this matter, where one precedent after another is being set, I would bet that it will not be long before we find that that advice is outdated. Maybe not now, maybe not soon, but somewhere down the track governments who allow smoke-filled work environments with exemptions will be held responsible. That advice is given in this current climate of an increasingly litigious society and during a public liability crisis, and it just doesn't seem to make sense to be so dismissive. After all, we are talking about heart disease and cancer; we are not talking about broken arms and emotional trauma.

But, Mr Speaker, whether the government is liable or not is not really the point. What matters is the fact that patrons have successfully sued clubs for passive smoking-related illness and we are expecting employees in the ACT to spend hours every day exposed to ETS. The exemption and disregard of basic OH&S issues has created two classes of workers—one protected from smoke-filled and hazardous environments like the one that we enjoy in this building, and a second class of workers who are unprotected from ETS because of a choice of their employment. I might say that sometimes they have no choice at all as to where they get employment. This is simply unfair and unwise, and it would be remiss of this or any government to allow this to continue.

Many workers involved in hospitality are unskilled and young. They often don't have the choice of other workers in moving to another industry where a smoke-free environment exists. While smokers have the choice to not smoke, non-smokers do not enjoy the luxury of choosing not to breathe.

The Smoke-free Areas (Enclosed Public Places) Act 1994 places a general prohibition on smoking in enclosed public places, with provisions to allow restaurants and liquor-licensed premises to obtain an exemption from this prohibition if specified criteria are met. In an exempt restaurant, smoking may occur in up to 25 per cent of the dining area. In exempt licensed premises, smoking may occur in up to 50 per cent of the public area of the premises. An exemption is valid for three years, after which a new application is required if a further exemption is sought.

Non-smoking dining is now well accepted in the ACT and elsewhere. In the ACT exempt restaurants have remained at 2 per cent to 4 per cent of the total number of restaurants and cafes. There are currently 10 premises with restaurant exemptions. In view of proprietors' reports of decreasing customer demand for smoking-permitted areas, together with the increasing popularity of outdoor dining, the demand for restaurant exemptions is likely to continue to diminish. The phasing out of restaurant exemptions can therefore be expected to not be contentious.

The number of exempt licensed premises currently stands at 77, with another 10 applications pending. Assuming that all pending applications are granted, these exemptions would represent approximately 46 per cent of all non-dining licensed premises in the ACT.

Since 1994 information has continued to accumulate about the harmful effects of passive smoking and about the limitations of ventilation systems to provide effective protection from tobacco smoke. There has also been an increase in successful legal and compensation claims by people who have suffered passive smoking-related diseases and conditions.

Australia's National Health and Medical Research Council, the National Occupational Health and Safety Commission, the National Heart Foundation, the Cancer Council of Australia, and medical colleges are among the health and medical authorities to have urged that effective measures be put in place to protect people from passive smoking in enclosed public places and workplaces. The need to reduce people's exposure to ETS is highlighted as a key strategy area in the national tobacco strategy and is discussed in some detail in the National Response to Passive Smoking in Enclosed Public Places and Workplaces, endorsed by the National Public Health Partnership.

From the point of view of occupational health and safety, the exemption system has created inconsistencies between the act and the Smoke-free Workplaces Code of Practice pursuant to the Occupational Health and Safety Act 1989. These inconsistencies have become an increasing source of confusion for employers and employees.

At a national level there is a perception, as evidenced by the recent national tobacco scoreboard, that the ACT has not only failed to maintain its leadership role but has fallen behind other jurisdictions in several areas of tobacco control, including passive smoking. There are some who will argue that the scoreboard has no relevance and that it is not a credible tool in assessing government performance in addressing smoking issues. In more cases than not, these are the same people who were highlighting the scoreboard when the ACT was sitting at number one.

The need to review and update the exemption system was particularly noted in the context of the ACT's low placing on the scoreboard. Within the ACT, criticism of the ACT's exemption system has continued over the past eight years. Health and medical groups are concerned that the system exposes customers and employees to tobacco smoke, and the Health Protection Service regularly receives complaints about tobacco smoke exposure in exempt premises, even where current requirements are met. A number of people have made complaints to me and asked me to do something about smoking in licensed clubs and premises that have been granted exemptions.

Legislation restricting or prohibiting smoking in enclosed public places has now been enacted in every state and territory. Western Australia is currently considering proposals for strengthening its legislation and a legislative review will be conducted in Tasmania in the near future.

There is now considerable justification from a public health perspective for providing patrons and employees with more effective protection from passive smoking. This would ideally involve phasing out the current system of exemptions. Because one-quarter of

existing exemptions will expire in 2004 and more than half will expire in 2005, a strong case can be made for commencing a process which will lead to the phasing out of these exemptions by 2006.

I look forward to the contributions of other members in this debate and I also look forward to seeing this become the first step in the next part of the evolution. Mr Speaker, I am assuming that any opponents of the motion will talk about the negative effects on the hospitality industry and people's right to have a smoke—and all the other usual things, including the tough regulations already in place. The fact is that workers and patrons are not protected and we need to take further steps to ensure a better and healthier environment for many workers—in fact, for all workers.

Even if you do oppose a total smoking ban, you should be able to support this motion. By recognising the flawed premise which the current legislation is based on, that is AS1668.2, you can lend your support to the motion and ensure that even my less preferred option of tougher ventilation options is pursued. I would like to see a ban, and the sooner the better, but I urge all members to look at the detail of the motion, avoid the emotion and get this motion through.

I commend the motion to you.

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 11.59 am to 2.30 pm.

Questions without notice

Land tax—family trusts

MR HUMPHRIES: My question is to the Treasurer. Treasurer, you will recall that the Assembly passed your government's Revenue Legislation Amendment Bill 2002 on 27 August. This legislation, inter alia, extended the land tax base and increased the rate at which land tax is imposed. When you announced the decision to make these changes, you noted that appropriate action would be taken to "minimise any unintended or adverse impacts". In the Assembly on 27 August you commented that the government was attempting "to make sure people do not abuse the system with companies or trusts owning properties, simply as tax avoidance devices".

Treasurer, we are now aware that there are some people who apparently are using legal entities such as family trusts to live in their family home but who clearly do not fit the description of the government's target of these changes to the land tax regime. In many cases these families have resided under those provisions for decades. I am advised that these days family trusts provide no tax advantages for the ownership of family homes.

Why then have you refused to grant exemptions to people whose family homes, that is where they live, are owned by family trusts? How is it fair that land tax should be imposed on one family while the next door family pays none?

MR QUINLAN: I do not have a recollection of refusing any application for relief for a family home.

Mr Humphries: I think you might have.

MR QUINLAN: I will check. The legislation is aimed particularly at companies owning homes that are effectively owned by private individuals. We are receiving a number of appeals from people putting their case and saying, "We are caught here, and it is going to cost us money to transfer the title of the home from the family trust to the individual." I think that is appropriate. Those cases will be taken on their merits. Already we have appointments with people to hear their cases so that we can determine whether there is a legitimate case and this is the way they were told to do their estate planning. If the imposition of land tax on them means that it is far more cost effective for them to have a conventional ownership structure, then we will review their case and, where appropriate, we will waive the stamp duty required to transfer from the trust to the individual owners.

ACTION bus fleet

MS GALLAGHER: My question is to the Minister for Planning, Mr Corbell. Minister, I have noticed some flash new buses on the roads in Canberra over the past couple of weeks. Can you inform the Assembly whether Canberrans will be enjoying these buses on a permanent basis?

Mr Humphries: You have not ridden in one, have you? You are paid to go on a bus.

MR CORBELL: I pay to go on buses, Mr Humphries. I thank Ms Gallagher for the question. Well may the opposition feel a little embarrassed on this issue, because this government is spending more money on bus fleet replacement than they ever did when they were in office. The Labor Party went to the last election with a strong commitment to public transport which we are now delivering on. Over the next four years, the Labor Party will invest $46.8 million in public transport in Canberra. That is the extent of this government's commitment to improving public transport in Canberra. That is a $46.8 million increase. It includes $17.2 million for a bus fleet replacement program.

Earlier today I was very pleased to show off the new buses being trialled by ACTION as part of our bus fleet replacement program. These buses are state of the art. They are airconditioned and run on compressed natural gas. They have ultra-low floor access and ramps for people with mobility access problems. Whether they are in a wheelchair or on scooters or whether they are parents with prams, they are going to get better access as a result of this government's bus fleet replacement program.

The new buses are also environmentally friendly. They run on compressed natural gas, and as a result they are also quieter. But wait, there's more. These buses will be trialled along with two other types of buses—buses produced by the MAN group in Germany and Scania in Sweden. These buses are currently being used comprehensively in Brisbane and Adelaide, and they are proving to be very popular with driving staff and customers.

I anticipate that ACTION will have completed their assessment of the possible buses for our bus fleet replacement program late this year or early next year, and hopefully we will see the first of these buses on the road in the ACTION livery in the first half of next year.

This government is moving ahead, delivering better public transport for Canberra, with a major investment in public transport, sustainability and modern buses that meet the needs of the travelling public.

MS GALLAGHER: Minister, how does this fleet replacement program compare to the previous government's program?

MR CORBELL: This is a very pertinent question. I expect the volume on the other side of the house to increase considerably as we move through this answer. As I have indicated, Labor is investing $17.2 million to replace ACTION's ageing bus fleet. How does this contrast with the previous government's bus fleet replacement program? It contrasts very well, because they did not have one.

Mr Smyth: I take a point of order, Mr Speaker. In the 2001-02 budget—

MR SPEAKER: That is not a point of order. Resume your seat or you will find yourself sitting outside somewhere. That was a frivolous point of order.

MR CORBELL: The Liberals had no dedicated bus fleet replacement program. They tried to get it all going through their free school-bus bribe. That was how they tried to address the bus fleet replacement program. they proposed that they would buy, as part of their free school-bus travel rort, 19 new buses. How does this contrast with the Labor government's commitment? Let me make it crystal clear. The opposition were proposing to buy 19 new buses. We are proposing to buy 44 new buses for the ACTION bus fleet. There will be 44 new buses on Canberra's streets, 44 buses with wheelchair access, 44 airconditioned buses.

Mr Smyth: I take a point of order, Mr Speaker. The minister contradicts himself. Two minutes ago he said—

MR SPEAKER: There is no point of order. Resume your seat.

Mr Pratt: I take a point of order, Mr Speaker. I identify tedious repetition.

MR SPEAKER: That is not a point of order.

MR CORBELL: There will be 44 new buses with wheelchair access, 44 new buses with compressed natural gas, 44 new buses with ultra-low floors. That is this government's commitment, one that puts yours in the shade. No wonder Mr Smyth is embarrassed enough to take points of order.

Civic carousel

MR CORNWELL: My question is addressed to the Minister for Urban Services. I refer to an article in the *Canberra Times* of 25 September concerning the temporary closure of the Civic carousel, something rather dear to my heart, because in 1974 I voted on its purchase. Comment was made that the Civic carousel was closed yesterday afternoon because of the public liability insurance crisis, as you would be aware, Mr Wood, and will not be reopened until at least late October.

The manager said he had to break the news of the closure to children at 4 pm yesterday. The article continued that since the collapse of insurance company HIH last year insurance premiums had more than doubled, and the manager was told a few weeks ago that his insurer would not risk continuing the policy. Environment ACT was disappointed that the carousel had to close but hoped insurance problems could be addressed. Mr Penny said:

> We regret any disappointment that this may cause and will inform the public of the reopening date as soon as a replacement policy is in place.

Minister, can you advise the Assembly when you anticipate that the carousel will be able to reopen, given that Mr Penny operates the carousel on behalf of the ACT government? Can you confirm that the carousel will not be open for the remainder of Floriade and the upcoming school holidays?

MR WOOD: It is inevitable that the opposition is interested in this issue. It is an important issue. We were all concerned when we heard about the closure. Your future question might be about those fairground things that go up and down.

Mr Pratt: I am interested in the things that go around.

MR WOOD: You are going round and round too, but I understand that with those that go up and down yours are all down at the moment and there are no ups at all.

I can repeat the answer which was in the *Canberra Times*. We afforded them all the information that was available. I can only repeat what is in the *Canberra Times*. I do not think we need to be lectured here about the problems of insurance.

Environment ACT and government agencies have been looking assiduously for insurance for the merry-go-round, as we do for all sorts of events in Canberra. We get involved to see if we can help people. At this stage we believe we might have a solution coming out of Brisbane. The insurance company has set very stringent requirements. They want to backtrack and see how the merry-go-round shapes up. That will take three weeks. I hope that at the end of those three weeks the company is able to take on the insurance. I cannot guarantee that, but there is some optimism about it, because it is a pretty well-run merry-go-round. We do not anticipate that we can conclude that arrangement short of three weeks, Mr Cornwell. If you have any other suggestions, please let us know. You might get off your current merry-go-round and help this one.

MR CORNWELL: I ask a supplementary question, Mr Speaker. Minister, do you consider that the interests of local government agencies such as your department and community organisations in keeping community facilities such as the carousel operating throughout this public liability crisis deserved representation on the Ipp committee, or do you agree with the views expressed by your colleague the Treasurer, Mr Quinlan, that they are merely special interests and should have not been represented on the committee?

MR WOOD: Mr Cornwell, I do not think I have ever disagreed with Mr Quinlan—maybe at budget time once or twice. You could extend the Ipp committee forever to try to include absolutely every group in Australia. You will understand that that is a task that

cannot be done. It should not have included sectional interests. It cannot cover every little corner of the world, Mr Cornwell. It is as simple as that. Tomorrow, when we debate Mr Quinlan's excellent legislation, with which I totally agree—

Mr Smyth: I thought it was the Chief Minister's.

MR WOOD: Mr Stanhope's, yes, of course. We might make good ground in the ACT in our own way in helping to resolve some of these issues.

ACT public service—indigenous employees

MS DUNDAS: My question is for the Minister for Community Affairs. Minister, could you please inform us what proportion of the ACT public service is made up of indigenous people, and has this percentage of indigenous people increased or decreased over the last 12 months?

MR STANHOPE: I will take the question on notice.

MR SPEAKER: Do you want some supplementary information, Ms Dundas?

MS DUNDAS: I do. Can you also take on notice whether in the 2001-02 financial year the number of indigenous people recruited to the ACT public service exceeded the number leaving?

MR STANHOPE: I will have to take that on notice.

Civil laws

MR SMYTH: Mr Speaker, my question to the Chief Minister, pursuant to standing order 114, concerns the Civil Law (Wrongs) Bill. Chief Minister, in introducing this legislation you said:

> Every jurisdiction in Australia, led by the Commonwealth, is developing a detailed response, through the Justice Ipp committee, to public liability insurance issues.

On 3 September 2002 you said in a media release:

> The principles reported in the Ipp review are sound.

On 13 September you said:

> We are considering the report of Justice David Ipp on litigation reform and we will respond positively.

On the other hand, your colleague Mr Quinlan reportedly said in a letter to Senator Coonan concerning Justice Ipp's committee:

> Its findings, for the most part, will have little bearing on the ACT legislative reform agenda; an agenda that will be implemented over the next 12 months.

Is your legislation consistent with that recommended by the Ipp report, as you implied when presenting your legislation, or did the Ipp report have little bearing on it, as Mr Quinlan's letter implies? If it is inconsistent with the approach recommended by Justice Ipp's committee, what are the major points of difference?

MR SPEAKER: In your response, Chief Minister, you might bear in mind that the standing orders prevent any discussion on a matter already before this place.

MR STANHOPE: I understand that. However, I can give some outline of the process we have agreed on in the ACT within the government. There is no inconsistency in the statements I made or the statement Mr Quinlan made. The Civil Law (Wrongs) Bill 2002, as I have indicated on a number of occasions, is a template piece of legislation that brings together in a single significant piece of legislation, essentially a building block, the range of laws in the ACT which deal with wrongs, otherwise known as torts. We have said consistently that we would bring together into a single consolidated platform the law in the ACT as it relates to torts, actionable wrongs, negligence and the processes that apply when one wishes to sue for a wrong. That is what the Civil Law (Wrongs) Bill does. It is a very significant piece of legislation. It is a trendsetting piece of legislation.

We have some natural advantages here in the ACT in that we are a small jurisdiction. We are confined in our public service to a small number of departments. It is easier for us to respond in a cogent and all-of-government way on some issues. That is what we are doing through the Civil Law (Wrongs) Bill.

I will not go into the detail of the bill. As the Speaker indicated, it is on the notice paper for tomorrow. But you need to understand that our position always was that we would use it as a building block and build on it in our responses, when finally determined, to the Ipp report and to the Neave report. The ACT government has not yet given any formal or final consideration to either the Ipp report or the Neave report. Both of those pieces of work are substantial.

Mr Smyth: You have made some comments on them publicly, though.

MR STANHOPE: We have made some comments on them, certainly, as one would. We can give an impression of our views. I did that yesterday in this place. I drew attention to some of the differences between the Neave approach and the Ipp approach. I drew attention to the fact that there is some difference of opinion between the Ipp committee and the Neave committee on how best to proceed in relation to some issues around medical indemnity insurance. I have not expressed a formal or final position on any aspect of either the Ipp report or the Neave report. These matters have not yet come to the government in a formal sense. We will prepare detailed responses to each of them. We will do it in a measured way. We will do it in a coherent way. We will legislate our response to those issues.

We will deal substantially and substantively with each of the issues raised by both Ipp and Neave. They contradict each other on the way forward. The recommendations of Ipp and Neave are not consistent. As I said yesterday, they each recommend a completely different approach to establishing a standard for the duty of care. On medical indemnity insurance, the two reports differ absolutely on determining whether or not negligence has occurred. Ipp recommends that a body of medical practitioners, medical specialists or

medical experts assume that function, a function that in the common law world has always been undertaken by the courts. Neave recommends that we stick with the court process. It is for the court to determine. It is for a judge, a judicial officer, to determine whether negligence has been proved or has occurred. It is not for a group of experts outside the judiciary to do so. So there are some major differences.

I indicated yesterday that Ipp and Neave each make recommendations on shortening the limitation period. Those are very big issues. These are not things that one just flings about and decides, "That looks like a good idea. We will cop that recommendation and refuse this."

There is no inconsistency in our statements or the position we have taken or put in relation to medical indemnity or public liability insurance. We are taking a detailed and measured look at all of the issues. We are looking for long-term sustainable responses that will bring premiums down.

Knee-jerk, quick flick, "aren't I wonderful", political approaches and responses such as yours, Mr Smyth, will do nothing to the level of premiums. They will be counterproductive. Your proposals would not work. They are a gimmick.

Mr Smyth: Are you sure?

MR STANHOPE: Absolutely. They are a gimmick designed to give you, the opposition, some little profile or platform on the issue to make it look as though you have some relevance.

Mr Smyth: You were not doing anything.

MR STANHOPE: Mr Smyth says, "You are not doing anything." Tomorrow we are debating it. I bet you are not across the detail of it. Tomorrow we will see exactly what you understand of the principles when we debate a 150-page bill, a most significant piece of legislation that I bet you do not have a clue about. You will not understand a single aspect or principle. I know you will not. It will be embarrassing to watch your performance—again.

MR SMYTH: Chief Minister, if as you have just said it is not inconsistent with the Ipp report and if the legislation is based on its recommendations, then why is the ACT government refusing to pay its fair share of the costs of the Ipp committee?

MR STANHOPE: This question was asked of the Treasurer yesterday, but I am happy to have my go at it as well. Mr Quinlan was quite right. The Commonwealth cannot have it both ways in an arrangement with the states and territories to proceed cooperatively on any issue, whether it is an investigation into public liability insurance or anything else. This is not how the federation works. This is not how the Commonwealth operates. The Commonwealth stands up and says, "Let us cooperate, the Commonwealth and all the states and territories, by taking forward the debate in relation to public liability insurance." The states and territories want a nationally consistent approach, want the Commonwealth to play its part, but as partners in the Commonwealth we have a role because we are going to legislate.

We sign up to an agreement. We give the Commonwealth the wink and the nod. We say, "Yes, we will be part of that." The very next day, without consultation on terms of reference or membership, the Commonwealth says, "This is what we are doing. We have established a committee. We, the Commonwealth, have decided on the membership. We have decided on the terms of reference. This is what we are going to do." Although we agreed to a partnership approach, the Commonwealth then does the job without consultation on the membership, the terms of reference, the end result or a desired united process. It says, "By the way, you remember that committee we set up? You remember those terms of reference we gave to that mob we identified and appointed? We would like you to pay the bill now."

The Commonwealth has to learn that it has to cooperate. I would have done the same on any other ministerial or Commonwealth/state issue. The Commonwealth throws its weight around, saying, "We will decide. We will develop the terms of reference. We will decide on the membership. We will do everything except pay the bill." The Commonwealth has another think coming.

Affordable housing

MS MacDONALD: My question is to the minister for housing. In light of the Prime Minister's new-found passion for affordable housing, what is the Stanhope government doing to make housing more affordable in the ACT?

MR WOOD: Mr Speaker, I was very pleased to hear Mr Howard mention the word "housing". I do not think I have ever heard him say that word before. It must be some problem if the Prime Minister is now picking it up. I hope he also has more than a conversation with Senator Amanda Vanstone, the minister for housing, because we are in our own discussions with that lady.

The Prime Minister announced that he will be forming a federal affordable housing task force which will be charged with the task of investigating options for making housing more affordable. That is good. We have done that. In fact, the local task force is not far from reporting.

It appears that the federal government is primarily concerned with making home ownership more affordable through the development of shared equity schemes whereby people jointly own their homes with a financial institution. That has yet to be assessed. I have heard good and bad comment about it. I am ready to listen to anything, and the task force is too.

Mr Howard's announcement is too little too late. The signs have been evident that housing affordability has been an issue for quite some time. It is also clear that these issues affect all parts of the housing system, be it public or community housing or private renters. The affordability crisis, I have to tell Mr Howard, extends beyond home ownership.

One of the actions this government took very early on was to form an affordable housing task force comprising industry, government and community representatives. The task force will report to me soon. It is chaired by Chris Purdon, who is also chair of my housing advisory committee, and it has been asked to make recommendations for an

affordable housing strategy which will help form part of possible policy directions for housing for this government. I have been briefed regularly by Ms Purdon, who has informed me of a number of the activities that the task force has been involved in. I have been impressed with the range of activities they have undertaken and the wide range of options they have identified. I stress, as I do repeatedly, that there are no quick and easy solutions to this problem.

One thing that is clear to me is that a number of options are needed and that the right policy mix of assistance for the various tenures is needed. Certainly, I have been made aware through the work of the task force that the development of a shared equity scheme may be of merit and something to consider, but that is only one of a number of options to be examined.

Other options that I have been made aware of and the task force is currently seeking public comment about include utilising the land and planning system to achieve extra units of stock, using a range of financial incentives and trying to achieve a better use of existing affordable housing resources.

The task force has undertaken an analysis of the trends in housing affordability in the ACT, in conjunction with the National Centre for Social and Economic Modelling, and they have come up with some worrying statistics. As far back as 1999, 7 per cent of households in the ACT were in housing crisis. This figure is likely to have increased substantially since then. Look at the way housing prices and therefore rents have risen in just the last two years.

In 2002 only 19 per cent of total new rents available in the private rental market could be afforded by people in the bottom 40 per cent of income earners. The proportion of rents which private renters could afford has declined in all districts of the ACT over the last five years, in particular in Gungahlin and Tuggeranong.

The implications of a lack of affordable housing for a city as a viable, integrated and prospering entity are substantial. Families will not be able to live in the same neighbourhoods to give each other support and to ensure continuity of the values and traditions of their community.

Lower paid workers will be forced to commute longer and longer distances to get to places of employment, perhaps forcing industries to relocate. If we combine the increasing price and size of both mortgages and rents in the ACT with the possible impending shortage of land that Mr Corbell has recently identified, then the potential seriousness of this issue for the territory becomes apparent.

Mr Speaker, I look forward to receiving the report of the task force. I look forward to the report of the Commonwealth, as it is the first indication in six years that the federal government is interested in affordable housing.

Mr Cornwell: You said yourself that it takes time.

MR WOOD: It has taken a long time for them even to realise there is a problem. At least they have realised there is a problem. It has taken them seven or eight years. The federal government has an opportunity to build on this new area of concern by agreeing to

increase money for social housing through the renegotiation of the Commonwealth-State/Territory Housing Agreement. At the last meeting I attended, Senator Vanstone was indicating less funding. I hope she is talking to her Prime Minister. I look forward to her comments when I meet with her and other state and territory housing ministers on 25 October at the next meeting of housing ministers.

Land supply

MR STEFANIAK: My question is to Mr Corbell in his capacity as Minister for Planning. Minister, you were quoted in the *Canberra Times* of 4 September as saying:

> Land supply in southern Canberra was all but exhausted, leaving Gungahlin as almost the sole site of future land releases.
>
> There is a real and increasingly immediate prospect now that this land supply will be exhausted within the next five to 10 years if current population growth lifts even modestly above its current 1 per cent, or if further land is removed from the residential land-release program due to ecological concerns.

Is it correct that present projections indicate that there is enough land in Gungahlin for another 100,000 people and that with a sensible in-fill program you could support another 30,000, meaning that Canberra's population would need to reach 450,000 people before we ran out of land. Given the current growth rate of 1 per cent, is it accurate to say that the ACT will not run out of land before 2042, and if we maintain a population growth of 2 per cent we will run out of land by 2022? What did you base your rather panic-stricken predictions in the *Canberra Times* of 4 September and your speech of 4 September to the planning forum on?

MR CORBELL: Mr Speaker, the figures Mr Stefaniak quotes are accurate in that they are the published projections and assumptions which all territory governments have worked on to date. The government does not dispute that that is the accepted and conventional assessment of the territory's land supply.

But the advice I have received most recently from the land area of the Department of Urban Services, which is responsible for assessing future land supply in conjunction with Planning and Land Management, is that we could face serious land shortages sooner than we originally anticipated if our population growth rises above its existing level, or if we have to withdraw future possible residential land releases because of ecological concerns.

It is a fairly logical argument. There is all this land set aside for residential use. If you cannot build on it because of ecological concerns, that means you have less land. That is the issue I raised. I raised it in the context that north Gungahlin, which is the main development front for the city, is an area which has a very significant representation of yellow box/red gum grassy woodland community. In fact, that ecological community occurs in very large areas of north Gungahlin.

That assessment has been identified previously but, as we have seen, changing community expectations about release of land and the value of ecological communities, can impact on the total amount of land available. It was in that context that I was making the point. I think the basis on which I made that point is fairly clear.

There is a difference between the Labor government and those opposite. Those opposite are prepared to rely on existing predictions, existing assumptions. We are thinking about the future. We are planning not just for the next three to five years. We are thinking about the next 25 to 30 years. We are the only government that has been prepared to put in place a detailed and strategic plan for the next 25 to 30 years, something the OECD has raised, something our community has been calling for for so long.

Over there are the mob whose only planning achievement was to get nine Canberra suburbs on the National Trust endangered places program. That was their legacy to the city. In contrast, this government is serious about developing a long-term strategic approach to planning in the city, not just for the term of this Assembly, but for the next generation. That is a responsibility we take seriously. My comments were made in that context when I spoke at the forum a few weeks ago.

Firefighters—radio system

MS TUCKER: My question is to Mr Quinlan as the minister for emergency services. I understand that a couple of years ago there was a budget proposal for money to upgrade the emergency services communication systems, and the firefighters' radio system was part of the proposal as their system was overdue for an upgrade. They have some black spots with poor reception. There are also problems with reception inside buildings and when firefighters are wearing encapsulated suits for biological and chemical risks. However, I understand that the expenditure since then under this budget item has concentrated on the development of a computer-aided dispatch system and that the radio system has not been upgraded. Could you advise why the firefighters' radio system has not been updated yet and whether this upgrade is likely to occur?

MR QUINLAN: Not off the top of my head. Certainly we are aware that there have been changes going on, and we have tried to manage improvement in communication within the Emergency Services Bureau as best as resources will allow. I will take the question on notice and get you a more definitive answer.

Red Hill property

MRS DUNNE: Mr Speaker, my question is to the Minister for Planning. It does not relate to the Gungahlin Drive extension. Minister, in February this year your office was contacted by two constituents from Red Hill in regard to problems they were having about their property, which unbeknown to them had been built over a creek and on landfill. I understand that your office arranged for the constituents to speak to officials and an appointment was made for you to speak with them. However, that appointment was not to take place until last week, 7½ months after they first contacted your office.

I was informed that your office rang them the day before the meeting to cancel the appointment, saying that you had reviewed the case, you could do nothing and nothing would be gained by the meeting. Do you regard 7½ months as a reasonable waiting time to meet constituents, and do you consider such an abrupt cancellation of such a long-awaited meeting an appropriate way to treat constituents?

Mr Quinlan: They haven't been reading your mail, have they?

MR CORBELL: Maybe Mrs Dunne has been reading my correspondence. When the constituents originally contacted my office, they did not in the first instance, I am advised, seek a meeting with me. My office arranged for them to meet with officers of PALM, which they did on a number of occasions. They also met with my advisers on at least one occasion to discuss the issue. They were unsatisfied with the responses they had received, and they sought to meet with me. I initially agreed to that meeting. However, I reviewed the circumstances in which they wanted to meet with me. It became clear to me that my meeting with them would in no way change the circumstances they faced.

The bottom line is that the government cannot assist this couple. They are adamant that we can. We have explored every possible avenue to try to address their concerns. It is not possible to address their concerns to the extent that they wish to have them addressed. I am sure that previous ministers have encountered similar circumstances.

Mrs Dunne: And you tell them to their face.

Mr Stanhope: Like you told Helen Cross to her face? You mean like that? You can talk about telling people things to their face after what you did to her. Gutless mob.

Mr Cornwell: I take a point of order, Mr Speaker. I cannot hear the minister's excuses because I am listening to the Chief Minister's excuses.

MR SPEAKER: Mr Cornwell, you would be one amongst the opposition who has been concerned about others making a noise and preventing ministers from answering their questions. If others could follow your example, it would be a lot easier.

MR CORBELL: In those circumstances, I felt that a further meeting would not assist them to get the settlement they wished, because it is simply not within the ambit of government to provide the relief they were seeking. That was communicated to them.

MRS DUNNE: Minister, have you played Pontius Pilate on this issue and just washed your hands of it, and why will you not help the constituents?

MR CORBELL: I have already answered that question.

Unborn children

MR PRATT: My question is to the Attorney-General. Mr Stanhope, I draw your attention to the front page of the *Daily Telegraph* and the *Herald Sun* today, which outlines the case of a young pregnant women. She and her partner were victims of a hit-and-run road rage driver. She was seven months pregnant at the time. She lost her unborn child as a direct result of this incident. Attorney, does the ACT have any legislation which protects an unborn child? Is there any legislation in the ACT which would allow a charge of manslaughter or murder where a deliberate or reckless act causes the death of an unborn child?

MR SPEAKER: I think you might be asking for a legal opinion.

MR STANHOPE: I have not read the *Telegraph* or the *Herald Sun*. I confess that these are not papers I read. I read a quality news sheet, the *Canberra Times*. I do not wish to—

MR SPEAKER: Chief Minister, I am going to insist on this. I think the question called for a legal opinion, and I am going to rule it out of order.

Mr Smyth: I take a point of order, Mr Speaker. Standing order 114 says that questions may be put to a minister on any matter of administration for which that minister is responsible. Mr Stanhope is responsible for administering the law of the land. Mr Pratt is not asking for an opinion; he is asking which laws exist. Is there a law? It is quite clear.

MR SPEAKER: Mr Pratt asked whether there were any laws which would deal with the issue he raised. That is calling for a legal opinion. I have disallowed the question.

Mr Pratt: Mr Speaker, can I ask him to take the question on notice? Would you like to take it on notice, Chief Minister?

Mr Stanhope: On a point of order, Mr Speaker: I could not have answered the question other than to say I would have to seek legal advice from my department. The Speaker was quite correct. I support the ruling the Speaker made. You raised an interesting question, a question of some moment, but I could not answer it. I could say we have the Crimes Act and the Crimes Act contains a number of provisions. You asked whether or not there is a law that does this or that. I would have had to seek a legal opinion on it.

Mr Stefaniak: I take a point of order, Mr Speaker. I do not think it seeks a legal opinion. "Is there an ACT law that covers it?" is just like "Is there any information in the Department of Urban Services relating to how many roads were built in 1998?" It is asking for information from the relevant agency, the justice department.

MR SPEAKER: What if it had gone to an issue of common law or some other law? It called on the Attorney-General for a legal opinion about what is contained within the law. That is specifically ruled out by the standing orders.

Mr Pratt: I raise a point of order, Mr Speaker. Are we not asking a question about capability? It is not asking for a legal opinion. We are asking a question about the capability of the ACT to cover that contingency.

MR SPEAKER: You have asked the Attorney-General for an opinion on the law. The standing orders prevent you from asking for legal opinions.

Magpies

MR HARGREAVES: My question is for the Minister of Urban Services. In September each year magpies can be a big problem for people in Canberra, as elsewhere. While some of us are very fond of magpies, others in our community are much troubled by them. Do you have a strategy to deal with magpies?

MR WOOD: This is an important question. I do not mind admitting I have had heated discussion within my colleagues here about this subject. The first question we had to resolve was why magpies are so troublesome in Canberra in September, when in

Melbourne the magpies are rarely sighted during September. This year is the first since 1994 that the magpies have made an appearance in Melbourne. Their appearance prior to that was in 1990, and even then it was a delayed appearance on the first weekend of October rather than the last weekend of September. Of course, Melbourne has its other worries. It is concerned about rampant lions or crows coming from other parts of Australia. We are fortunate in the ACT. We have to deal only with kangaroos and sometimes with brumbies.

But let me talk about the magpies that swoop and trouble people. For many people it is not an issue to be dealt with lightly. Only this morning I was reading a letter that came in my mail. I read my mail very carefully every day.

Mr Quinlan: Are you the only one?

MR WOOD: I hope so by now, Mr Quinlan. I had a quite angry letter from a constituent. Our rangers had been out to see the problem with the local magpie. It appears that this magpie identified this person and was very aggressive towards him and not anyone else.

Each year Environment ACT receives over 250 reports of magpies. Last year 380 warning signs—collectors' items, I understand—were erected to advise residents to be aware of the presence of magpies. Most complaints are received in August and September, when the male birds are most actively defending their territory.

Rangers promote a "living with nature" ethos when dealing with the public, to encourage the community to accept the birds. Magpies normally and naturally swoop on intruders. You would know all the clues about protecting yourself, even with an umbrella. I do not need to tell you those. Magpies are a problem each year.

Mr Humphries: A machine gun is quite good.

MR WOOD: No, Mr Humphries, we do not support that option. That is like the government that went before—shoot at everything that moves. Recent research undertaken in Brisbane shows that relocating a swooping magpie well out of the urban area is a successful strategy for reducing the public nuisance.

Mr Pratt: With all due respect to magpies, Mr Speaker, I raise a point of order. Would your ruling on the last question not also apply to this question? It asks for an opinion about contingencies which exist to deal with a problem. Should you not also be ruling this question out of order?

MR SPEAKER: I do not think so. Sit down. I do not think Mr Hargreaves mentioned the law in relation to magpies.

MR WOOD: Research in Brisbane shows that relocating a swooping magpie well out of the urban area is a successful strategy. This effective anti-magpie strategy is funded by the Brisbane City Council, perhaps even the Brisbane Lions football club.

This year, in excess of 20 magpies in the ACT have been relocated well out into the Namadgi National Park. This is the preferred strategy. We will evaluate it later on. As a last gasp, if a magpie comes back and is particularly problematic, it may be euthanased. But we do not think we would suggest that measure, Mr Hargreaves, with the Melbourne variety of magpies. I understand you would resist that.

If you are harassed by a wayward magpie this season—and I hope this is not too subtle—think of the connections with Collingwood. Do not go fifty-fifty, do not ask the audience, do not phone your friend; ring the swooping magpie hotline.

Mr Stanhope: I ask that further questions be placed on the notice paper, Mr Speaker.

Personal explanation

MR SMYTH: Mr Speaker, I ask for leave to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MR SMYTH: Mr Speaker, during question time, the minister for transport claimed that the previous government had no policy on the bus replacement program. As the minister for transport at the time, I can tell you that it is untrue, Mr Speaker, and I wish to alert the house to that fact.

MR SPEAKER: Order! Standing order 46 is for explanations of a personal nature.

MR SMYTH: I was the minister responsible, Mr Speaker.

MR SPEAKER: That the performance of the last government has been raised in this place is not a personal matter.

Bus fleet

MR SMYTH: All right. Mr Speaker, I ask for leave to make a short statement concerning transport.

Leave not granted.

Suspension of standing and temporary orders

MR SMYTH (3.26): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Smyth making a short statement on transport.

Mr Speaker, when something is said in the house that is untrue, I think it is very important that we take the opportunity to correct it, and ask the member who spoke to that point to acknowledge that he or she has something wrong.

Something was said in question time today that is wrong. Indeed, it was corrected by the member during his speech, when he said at first there was no policy, then he outlined the policy, which is a clear contradiction. They cannot both be right.

I think it is very important that the integrity of this place is maintained by ensuring that the facts that are put in front of us are recorded accurately. It is important that, where these statements of fact are found to be contradictory or inaccurate, the opportunity is presented to members to correct the record. That is what I seek to do.

I wish to put some facts before the Assembly, so that the member who made a mistake—I assume it was an honest mistake—will have the opportunity to correct that mistake.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (3.27): Mr Speaker, the standing orders explicitly allow for all the circumstances where a member may want to clarify or correct the record.

Standing order 46 deals with personal explanations, 47 deals with specific words, and the other opportunity is the adjournment debate. However, if the opposition stands up in this place and consistently seeks to make its political points after question time, it is not an appropriate use of the Assembly. There are other opportunities.

If they have explanations of a personal nature, standing order 46 permits that to occur. If it is in relation to the use of particular words, standing order 47 permits that to occur. The other opportunity is during the adjournment debate. The motion should not be supported.

MS TUCKER (3.28): I might need clarification. I did understand that standing order 47 would have allowed someone who felt they had been misrepresented to speak. If Mr Smyth had the responsibility at the time, he could have clarified—

MR SPEAKER: Ms Tucker, there was no question before the chair.

MS TUCKER: Okay. On the question of suspension of standing orders, I think I would support it as long as it does not go on for too long. If we are going to keep stopping the debate all the time and going on like this, it starts to get ridiculous.

Question put:

> That **Mr Smyth's** motion be agreed to.

The Assembly voted—

Ayes, 8		Noes, 8	
Mr Cornwell	Mr Smyth	Mr Berry	Mr Quinlan
Ms Dundas	Mr Stefaniak	Mr Corbell	Mr Stanhope
Mrs Dunne	Ms Tucker	Ms Gallagher	Mr Wood
Mr Humphries		Mr Hargreaves	
Mr Pratt		Ms MacDonald	

MR SPEAKER: There is no absolute majority as required by standing order 162.

Question so resolved in the negative.

Passive smoking

Debate resumed.

MR SMYTH (3.32): The Liberal Party will be agreeing with the principle of what has been placed before us today. However, I think what we need to do is put in context what has been done over the last 12 years or so. My understanding is that the initial work to free workplaces of smoke commenced in 1990 under the then health minister, Mr Humphries. There were indeed your bills in 1994, and of course more work was done in the term of the previous government.

However, there are moments when, standing in this place and listening to some of the speeches of Ms MacDonald, I suddenly feel that I am living in a parallel universe. Her comments that Michael Moore and Kate Carnell were under the control of the smoking lobby were ridiculous in the extreme, particularly when you look at what was achieved in the term of the last government. There were a number of wonderful initiatives, including those regulating the way that we sell cigarettes, which enforced the smoke-free environment. They included freeing up public places such as the Canberra Stadium, which is smoke free because of the work of the previous government.

I hope that one day we will come out of the parallel universe and actually get to the facts of the matter.

The motion before us is important. It is a serious subject of which we should take great heed. Without foreshadowing debate on Ms Tucker's amendment, which I have just received, the point that I wanted to make was that perhaps this is an issue of enforcement. I understand that reports have been made to the health inspectors about workplaces not using the extraction systems that they have fitted. Why they would do such a thing is beyond me. However, I think that, if they have an exemption, and they have the exemption because they have fitted the extraction system, it is important that the government of the day makes sure that those systems are used and are used appropriately.

There are a couple of other issues that we have to address, including the issue of the long tail. Yes, there certainly are people coming forward who have suffered from passive smoking-related diseases and conditions. They should be treated with consideration and everything they say should be taken seriously. However, I think the changes that have been made in the last 10 years should be looked at with regard to offering a choice of venues for those who smoke.

I will make it quite clear: I do not smoke and I would prefer people did not smoke around me. However, we have to have an assessment of the effect of the legislation. What I suggest, and I think Ms Tucker encompasses this quite nicely in her amendment, is that we look at whether or not the regime is working, with the extraction systems that have been installed at great expense by many of these places—the 77 exempt.

I assume it is the intention of the 10 with exemptions pending to spend the money to make sure they have the extraction system. We should look at whether or not the systems are being implemented properly, at whether they are actually being used, and whether the enforcement regime that is needed to make that happen is in place and working effectively.

The final dot point calls on the ACT government to address concerns raised by the accumulation of information, and it would be interesting to see what information there is, and how it is viewed in light of the enforcement regime.

I think there is a little bit of work to be done, particularly in seeing that the health inspectors are doing their job appropriately and effectively, and whether in fact there are enough of them. When that is done, and the result is taken in light of the information that we have to hand, it might be appropriate to look at the legislation, perhaps further enforcement, perhaps stronger conditions, and perhaps fewer exemptions. Let us see what effect the assessment of the legislation would have first.

MS TUCKER (3.36): Mr Speaker, I move the amendment that has been circulated in my name, which adds the following new paragraph:

> (6) calls on the ACT Government to undertake an analysis of air quality in workplaces where the exemption system is in place and that this be tabled by the last sitting day in December 2002, with a Government response to the results of the analysis.

I will speak to the general motion as well as my amendment. I support the sentiments that have already been expressed by other members here about the question of the impact of environmental tobacco smoke on people in any situation, whether it is in a commercial premises where an employee/employer relationship exists and patrons are present, or whether it is in the home or in other places where people are exposed to tobacco smoke in the air.

In particular, I have added this amendment to this motion because I commend the motion and I think it is an important issue, but I would like to see something more concrete come out of it. I have asked that the government undertake an analysis of air quality in workplaces where the exemption system is in place, and that this be tabled by the last sitting day in December 2002. That is going to be amended as I understand it—and I am comfortable with that—to the first sitting week of 2003.

However, I am also asking that that analysis be tabled with a government response to the results of that analysis, because I think we need to see some sort of policy response to such an analysis. I am also quite concerned that the current situation in commercial premises is unacceptable. In fact, I was interested to read in National Heart Foundation correspondence that was sent to me by the chief executive of the National Heart Foundation where a person stated that, overwhelmingly, properly designed research studies published to date have found no negative economic impact of smoke-free policies on the hospitality industry.

There is even evidence that an introduction of a ban on smoking in commercial premises can do much more than protect people's health. The ban may even be good for business, as the Maroochydore Swan Bowls Club recently found when its membership doubled after the club banned smoking.

There is certainly quite a broad desire in the community to see tighter regulation of cigarettes in public places, inside and outside. The latest survey of 27,000 Australians over 14 years of age shows public opinion is way ahead of governments, with strong majority support for tougher tobacco measures, including 91.2 per cent support for stricter law enforcement of illegal sales, and 60.8 per cent support for smoke-free pubs and clubs. Those figures are from a newsletter produced by the Heart Foundation and the Cancer Council, dated June 2002, so there may have been further studies since then. That is certainly a good indication of general community opinion about this issue.

Once again, I commend Ms MacDonald for raising this issue and I hope members support my amendment to it.

MS DUNDAS (3.40): I will be speaking on Ms Tucker's amendment and the substantive motion and I rise to support both. Tobacco control is an issue in which I am interested, particularly when laws and standards that have been introduced are not being complied with. Before, in this place, I have raised the issue of there being absolutely no regime to ensure compliance with laws preventing the sale of tobacco to minors.

I understand the objections of the Attorney-General and I am still working to find a practical solution to this problem. As stated by the motion before us, the accumulation of evidence on the harmful effects of passive smoking during the last two decades has led to a number of landmark legal cases, as well as the introduction of legislation that prohibits smoking in many enclosed public areas.

As at mid-2001, there have been at least 35 legal cases in Australia and overseas in which people were compensated for damage to their health caused by passive smoking. Other significant cases have led to convictions under the trade practices and disability discrimination legislation.

We should look at the case of Scholean v New South Wales Department of Health in 1992. This precedent-setting case involved a Melbourne restaurant diner who had suffered a debilitating asthma attack after exposure to environmental tobacco smoke. The complainant alleged that the restaurant had failed to enforce the no-smoking rule in the non-smoking area, failed to adequately separate the smoking and non-smoking areas, and did not adequately ventilate the premises. The court awarded the litigant compensation of $7,000.

Further, we have Sharp v Port Kembla RSL Club, the famous case of 2001, where a hotel worker was awarded $466,000 by a New South Wales Supreme Court jury. The worker had contracted throat cancer after years of passive smoking in her workplace. These damages were the first to be awarded for cancer caused by exposure to environmental tobacco smoke.

These two legal cases should send a clear message to the government and employers that workers expect—and the courts agree—that they should be able to work in a smoke-free environment.

I have also been interested in the number of people who smoke while gambling, both being addictive behaviours. I wonder whether we should push for a total ban of smoking in pokies palaces to protect workers, and also make gamblers take a break every now and then. People will be aware that smoking has been banned in Crown Casino and Victoria's 534 other gaming venues, following groundbreaking work by Premier Steve Bracks. I read in today's *Herald Sun* that the casino and hoteliers are putting pressure on Premier Bracks, but he appears to be strong in his resolve.

Further, I have also been informed that new to the market are pokie machines with air filters installed on the top in an attempt to draw the smoke in. However, I would call on the government to look at the passive smoking that occurs in gambling venues, and perhaps follow the lead of its Victorian counterparts.

Another place where the ACT government could act regarding smoking is at sporting venues such as the Canberra Stadium, where, although you are unable to smoke in the stands, it is quite acceptable to smoke on the concourse between the seats and the food outlets, affecting people waiting in the queue, workers at the food outlets and those in neighbouring seats. This is not the situation at either the SCG or the MCG, where smokers have to go behind the stands. This is an issue that should be looked at when we are trying to stamp out passive smoking.

I feel that Ms Tucker's amendment is quite good and that it will bring to this motion another component of action. It will call on the government to provide us with some more information about and analysis of the air quality in our workplaces. Similar to Mr Smyth, I am concerned that there are clubs with systems installed that are not actually ensuring that the systems are turned on. As we have already heard, we need to be informed that the systems we have in place are actually working and being utilised.

I have been in venues with ventilation that allows them to have the non-smoking exemption, but where those fans have obviously not been turned on or are not working, as smoke fills the venues.

Mr Speaker, I thank Ms MacDonald for bringing the dangers of passive smoking to workers to the attention of the Assembly for this debate, and I hope that, through the ideas that I have put forward today, I have given the Minister for Health some practical solutions on which the government may act.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (3.45): As has been indicated, it is the code of practice for smoke-free workplaces under the Occupational Health and Safety Act that recognises the right of all workers to work in an environment which does not impose risks on their health from environmental tobacco smoke.

The code states that the most effective way to do this is to have no smoking in the workplace. If another approach is adopted, it is up to the employer to demonstrate that this alternative approach is at least as effective as preventing smoking. As the motion

being debated today states, there has been an increase in claims by workers who have suffered from passive smoking at work. The World Health Organisation and other health authorities acknowledge that there is no safe level of exposure to environmental tobacco smoke.

Tobacco smoke represents a special risk for children, for pregnant women and for people with existing ailments and conditions. Given all this, I think it is universally agreed that a responsible public health response includes taking all reasonable steps to ensure the highest possible level of protection for workers and others in enclosed public spaces.

It should also be noted that the current legislation prohibits smoking in all enclosed public places, unless an exemption is provided. The ACT was, I think, one of the first, if not the first, jurisdiction to put this type of legislation in place. Providers who choose to permit smoking on their premises under the exemption system are advised by the Department of Health and Community Care that they do so at their own risk, in view of other statutory and common law duties of care.

However, in view of the seriousness of the matter for workers and patrons, the government does intend to review the exemption system in the future. We will, of course, consult fully with the community on that. The ACT draft health action plan, currently out for consultation until 30 September, indicates the government's intention to review the system of exemptions. As members may be aware, phasing out exemptions is also an ALP platform position. The system of exemptions was forced on the ACT by Michael Moore, who amended ALP government legislation when it was passed in 1994.

The exemptions from the operation of the smoke-free public places legislation are not based on any health standards for a safe level of exposure to tobacco. They are based on airconditioning standards for the level of smoke in the air at which you will supposedly experience discomfort. In fact, those standards have been watered down. One of the ironic aspects of this matter is that those standards have been watered down since the legislation was introduced in 1994.

As I say, the government will be pursuing a full review of exemptions. We do look to the removal or phasing out of exemptions by 2006, but we are happy to support this motion. We are happy to continue a process of review of the exemptions in place. As I say, the government supports this motion and supports Ms Tucker's amendment.

MS MacDONALD (3.48): I have circulated an amendment as well. I move the amendment circulated in my name, which reads:

> Omit the words "last sitting day in December 2002", substitute the words "first sitting day in 2003".

Mr Speaker, if no-one objects, I would be happy to both speak to my amendment and close the debate.

MR SPEAKER: I do not know whether there are any other speakers and I cannot anticipate that, so I think you would be on safer ground if you just stuck to your amendment.

MS MacDONALD: Okay. I am happy to do that, Mr Speaker. I have moved an amendment to Ms Tucker's amendment, which states that we omit the words "last sitting day in December 2002" and substitute that with the words "first sitting day in 2003". The reason for this is that, while we support Ms Tucker's amendment, doing the analysis by December would be impossible. Even trying to achieve that by the first sitting week in 2003 makes for a tight timeframe.

However, we would be happy to consult with Ms Tucker on the methodology so that we can actually fit the analysis into the tight timeframe. It may be that we look at a cross-section of licensed premises being affected, so that we are not looking at the entirety of the premises in question. I recommend the amendment to you.

Ms MacDonald's amendment agreed to.

Ms Tucker's amendment, as amended, agreed to.

MS MacDONALD (3.51): Mr Speaker, I will close the debate. I would like to highlight some information about the scoreboard which I mentioned at the start of this debate. The National Tobacco Scoreboard has been compiled annually since 1994 by the AMA and the Australian Council on Smoking and Health, or ACOSH.

The aims of the scoreboard are to draw attention to the progress being made in tobacco control by state and territory governments, and to stimulate tobacco control initiatives by these governments. This year's scoreboard departs from previous years in that the areas of assessment reflect more closely key areas set out in the national tobacco strategy 1999 to 2002-2003. Two of the areas of assessment in 2002 are enclosed public places and smoke-free workplaces.

The ACT's legislation, which restricts or prohibits smoking in enclosed public places, was enacted in 1994, and reflects what was seen as a reasonable approach at that time. Over the years, however, further evidence has come to light about the health risks of environmental tobacco smoke exposure, and legal opinion and public opinion have strengthened in light of this information. The ACT's legislation is not entirely consistent with the national public health partnership's national response to passive smoking in enclosed public places and workplaces, which endorses a best-practice model.

Other states and territories that had previously lagged behind the ACT have enacted, or are considering enacting, legislation which provides greater protection from tobacco smoke exposure for patrons and employees in licensed premises than does the current ACT legislation. In the ACT, a small number of restaurants and approximately half of all licensed premises—pubs, clubs, bars, nightclubs, the casino and so on—have exemptions that permit smoking in limited areas, resulting in tobacco smoke exposure for patrons and staff. We must fix this.

In closing, I would like to offer some facts and figures for members to consider. As few as three cigarettes a day, or the equivalent passively smoked, can trigger serious heart disease. Women are at higher risk, possibly because smoking affects the female hormone, oestrogen, which gives non-smoking, pre-menopausal—almost made a fatal mistake there—women some protection from heart disease. The University of Copenhagen study followed more than 12,000 men and women for 22 years.

Given that most social smoking happens in pubs and clubs, smoke-free public places must become a higher priority for governments. Passive smoking is estimated to cause 1,600 deaths in Australia every year. Around 146 of these deaths are the result of lung cancer, and around 10 times this number result from heart disease. Exposure to passive smoking remains a significant occupational health and safety issue, particularly in the hospitality sector where workers are exposed to second-hand smoke on a daily basis.

Research suggests that there is a significantly higher lung cancer risk for both smoking and non-smoking bartenders, compared with that for the general population. Smoke-free workplaces not only protect workers and patrons from the proven dangers of passive smoke, they also help smokers quit, according to a new study in the *British Medical Journal*. The study says that total smoke bans in workplaces lead to smokers cutting down the number of cigarettes they smoke.

My closest friend, who is a smoker and also a teacher, does not smoke throughout the entirety of the days that she is teaching, because it is not acceptable for her to smoke in the schoolgrounds. I know that it is better for her health if she does that, and I hope that it will eventually lead to her giving up.

The study provides still more evidence for governments to push ahead quickly with stronger legislation to make all workplaces, including hospitality venues, smoke free. Research shows that this is necessary to protect employee and public health, that passive smoke causes serious harm even in small doses, and that the public strongly backs total bans covering pubs, clubs and casinos.

The main objection by the Australian Hotels Association, that smoke bans would lead to lost business, is based on false economics, as shown by the latest study on the effect of smoke bans in the dining industry in South Australia. It found that the bans had no adverse impact, supporting more than 30 worldwide objective studies on actual hospitality business figures following smoke bans.

Tougher controls make sense. They will help health budget blow-outs, improve worker safety, and reduce the massive costs to the ACT and national economies of sick days and so on. We simply cannot afford not to address this seriously, with urgency and with a tough mind-set.

Mr Speaker, I would also like to say that, earlier on, I failed to mention that, while I was doing research for this motion, every person my office rang mentioned your role in trying to make sure that we had reasonable, responsible and tough legislation. I commend you for your earlier work on this.

While I have put this motion up, I would also say that I discovered recently, while travelling during my honeymoon, that Australia is far in advance of most places in the rest of the world. For example, my mother-in-law could not attend a large part of her own son's wedding in Ireland because people were lighting up, and she had had respiratory problems that evening and the evening before.

As a result, she had lost her voice, she had a really bad cold and she just could not stand the smoky environment. It did not matter where you went: there were people lighting up when you ate. There was no consideration about what was done, so I know that Australia has moved a long way forward in comparison to the rest of the world.

However, that does not mean that we should stop. It does not mean that we should not keep pushing the boundaries and saying this is not acceptable. It is not acceptable for our health, it is not acceptable for the health of people who do not smoke, and it is not acceptable for the health of our children. We have to protect the community from passive smoking and from its ill effects. I cannot say that this has not been discussed before, and that I have not anticipated that there will be people who object to it.

I remember having this discussion nearly 10 years ago, in a previous life. The discussion then was: "It is coming. We will have to ban smoking in bars." However, the fact is that the organisation I was involved with then said, "We do not want to be the first to do it, because we will be the ones who will lose the business." If every workplace that is a pub or a club is required to have non-smoking places, and to be a non-smoking workplace and place for patrons, then there will be no loss of business.

For all of those reasons, I commend the motion to the Assembly.

Motion, as amended, agreed to.

Gungahlin Drive extension

MRS DUNNE (3.59): Mr Speaker, I move:

> That the Minister for Planning table, for the information of the Legislative Assembly, before the adjournment on Wednesday 25 September 2002, the report of the independent assessment of the western route of the Gungahlin Drive extension which has been jointly commissioned by the Government and the Australian Institute of Sport.

I move this motion because it has become of great concern to me that such a great deal of petty politics has been played out in relation to the Gungahlin Drive extension. In this place quite recently the government has accused the Liberal Party of letting down the people of Gungahlin. But the facts are quite the opposite.

When we were in government, we pledged to build the road—a real four-lane road; a motorway, not the two-lane squib that has been offered by Mr Corbell. Our promise was not an empty promise—far from it. We actually allocated funding for it in the 2001-02 budget, and we set in train the process needed to begin the work. That work could have begun, as I have said often, on 1 July this year.

Let us reflect on that: we could have been building the road on 1 July. There could have been 87 days since the beginning of construction and we could have seen real results. In 87 days you can do a lot of work. Yet this government has stopped this from happening. It has sat on its hands, it has blocked the eastern route, because of a dubious mandate it claims for its deeply flawed and possibly unachievable western alignment. It was this government—this Stanhope/Corbell claque—that sold out the people of Gungahlin. The

30 pieces of silver were a handful of votes in O'Connor, and a noisy minority from that suburb is now dictating to distant Gungahlin.

The fact is that there is no road. The fact is that no work has been done on building the road. The fact is that Mr Corbell has squibbed and has offered an absurd two-lane alternative. Even that is going to take longer than the original four-lane road would have, and that is assuming—and this is only a wild assumption—that it ever gets started. The two-lane road was a con trick, and everything that has been done about this since Mr Corbell became the minister has been a con trick.

Even while the change in policy was accepted by cabinet, Mr Corbell was in this place earnestly assuring us—Mrs Cross, Ms Dundas and me—that yes, consideration would be given to various aspects of it. Remember the bus-only lane? Remember the tosh that we talked about? It was silver-tongued, as Mr Corbell often is, but it was nonsense. There was never any intention to build a bus-only lane. Now the thing that has been holding us up is the Fitch report. We have the Fitch report somewhere—well, we don't have it; the government has it and one presumes the Institute of Sport has it, and we know that the *Canberra Times* has at least part of it. What we need to do is see it. But Mr Corbell says, "Yes, you can see it, but, well, just not yet." He is like St Thomas Aquinas: "Oh Lord, make me open to the people of Canberra, but not just yet."

This report was financed jointly by the territory and the Institute of Sport. It seems, from the reports and the extracts that have been read to me, that it is very critical of the western route. It takes issue with the noise, the pollution and the impact on the general amenity of the Institute of Sport. Now, the Fitch report was going to be the umpire in this dispute. Mr Corbell set a great deal of store by what came out of this report. But it seems that, once the umpire has spoken, he does not like the sound of that particular whistle.

On many occasions in this place I have likened some of Mr Corbell's characteristics to those of certain politicians of former times, and I was thinking about this earlier today when I was thinking about roads and my home town. I thought about the Bruxner Highway, which runs through Lismore and was named after Mick Bruxner. He was known as the Colonel and was the redoubtable leader of the Country Party in New South Wales for many years. Like Mr Corbell—I suspect he has never been likened to a Country Party figure before—Mr Bruxner was very selective in what he heard.

Mr Bruxner, like Mr Corbell, was ardently ambiguous. If any action favoured the Liberal Party or the Labor Party it had to be avoided at all costs; it was indeed the work of the devil. But if the Country Party had advantage out of that act, then of course it was the blessing of the Almighty itself and had to be embraced as electoral manna from heaven. This is exactly what we see with Mr Corbell. He is a latter-day Mick Bruxner. The report is good if it is favourable to the western alignment and, if it is not, it is a bad report, a very bad report, and a report that needs to be hidden away.

We know that this report is critical, but we just do not know how critical it is, because the minister won't allow us to see it. This minister needs to demonstrate that he has grown into the job, that he is not putting hubris above all things, that he is prepared to bite the bullet and admit that the weight of expert opinion is firmly against the western route, and that his policy is simply wrong.

Mr Corbell, here and in other places, claims that he must proceed with the western route because of a mandate. His claim of a mandate is false and fatuous. Did the people of Banks and Gordon who voted for Labor and who returned three members in the seat of Brindabella cast their vote for a preferred alignment for the Gungahlin Drive extension? I think not. The fact is that the people of Gungahlin have been betrayed by the intransigence of the Stanhope/Corbell government, not by ours. We had a road ready to go. All that the incoming government had to do was pick up the momentum and build it. But no, they chose to play politics. Why do they do that? Because they made a commitment that they can't deliver on.

There was always going to be a problem getting the Commonwealth to come on board when the policy initiative was to have such vast impacts on the Institute of Sport. The Commonwealth, over successive governments over 20 years, has sunk considerable millions of dollars into this institute, and it was not going to shrug off the vast implications of building a road outside the front door of the paramount institute for sporting endeavour in the country.

What have we seen as a result of this? This government has used the objection of the Institute of Sport to mount up the delays and to go into a protracted and prolonged exercise of blame-shifting. We saw it here yesterday with the Chief Minister saying that it was us that were at fault, it was the Commonwealth government that was at fault, it was the AIS that was at fault, and of course it is Wilson Tuckey that is at fault. When they run out of people to blame up on the hill and down here, they will turn around and look for other people to blame. One day we will find that they will be blaming Saddam Hussein, or anyone else that they can possibly think of, rather than take the medicine and face up to the fact that these are the people who are responsible for the delays in Gungahlin Drive.

This motion is a challenge to the minister. It is a challenge to him to table the report so that we can see it, debate it and have the necessary discussion about whether or not it does have the implications that it appears to have for the Institute of Sport. But I think that would be too inconvenient for this minister, who really does not like this umpire's report. Facts make life very difficult for this minister, especially when you are the minister for half a road. This minister reminds one often of Monty Python. He reminds me of the man in the skit who had a bee and a fish, both called Eric, except of course we all remember that Eric wasn't a whole bee; he was half a bee. This is a minister who has half a road. Perhaps we should call it Eric the Half a Road. Half a road; half a bee—it doesn't work, does it? No. Anyway, we have a minister for half a road, or perhaps for half a road that doesn't exist.

This is a minister for unkeepable promises. The fact that he is in here today and it is being demanded of him that he table this is an instance of the fact that he cannot keep his promises—that he doesn't want to face up to the reality. This minister has betrayed, cynically and savagely, the people of Gungahlin. This is a minister who needs to show some backbone and put the information on the table, and if the evidence is against him, as it appears to be, he has to admit that and face up to the fact that this is not the road to be built. This minister needs to get on, without delay, and build the road that was ready to go—the four-lane road that he stopped. He cannot continue to get away with the road that is not a road. The Gungahlin Drive extension is not the only thing that has been halved—so too has the credibility of this minister.

This motion calls on the minister to table the evidence, and I suspect that he dare not do that. I suspect that he will wait until this Assembly has risen, so that he can avoid the scrutiny of this Assembly, because he is a timid minister who has been well and truly caught out. He knows that he has not got a clue, and he knows that we know that he doesn't know.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (4.10): Well, I feel rightly told off, Mr Speaker. For the most part, I am not going to seek to respond to the taunts and name-calling of Mrs Dunne. What I will do is outline the argument why the Assembly should not support Mrs Dunne's motion today. But first I will give some background.

The ACT government commissioned a study in July this year to investigate the potential environmental health impact of Gungahlin Drive extension on elite athletes living and training at the Australian Institute of Sport. The ACT government did that because it was prepared to operate in a collaborative and cooperative way with anyone who is potentially affected along the alignment of the proposed Gungahlin Drive extension. This is not a government that does not do things because it thinks there might be a problem. This is a government that does things because it seeks to collaborate and work cooperatively with all the parties involved. To this end, Dr Ken Fitch, a sports physician from Western Australia, agreed to undertake the study.

A copy of the final report was provided to the Department of Urban Services and the Australian Sports Commission on 16 September. It is currently being assessed by the Australian Sports Commission, and the government has also considered the details of the report, along with details of the consultation process the government has undertaken with affected communities along the route—Aranda, Kaleen, Gungahlin itself and other stakeholders in the Bruce precinct.

As I have already indicated at question time, the government will be responding within the fortnight on the outcome of all of those assessments, including the assessment of the Fitch report. Mrs Dunne got at least one thing wrong. The ACT government has paid for this report, not the Australian Sports Commission. But it is a joint report. The terms of reference were agreed with the Australian Sports Commission, and the contractor, the tenderer, was also agreed with the Australian Sports Commission.

The agreement between the Australian Sports Commission and the ACT government is this: once the report is completed, both organisations will have a copy and the report will not be made publicly available until it is launched by both the ACT government and the Australian Sports Commission. The chief executive of the Department of Urban Services, Mr Thompson, was scheduled to meet with the chief executive of the Australian Sports Commission, Mr Peters, earlier this week. Mr Peters has requested that that meeting be rescheduled to next week. The purpose of the meeting is to discuss the report.

In these circumstances it would be highly peremptory for this Assembly to call on me—in fact, require me—to table a copy of this report and effectively break the undertaking that this government has with the Australian Sports Commission. Those are the facts of the matter. The government is not seeking to hide this report. This report will be made

public, in its entirety and as presented by Dr Fitch. As I advised members yesterday, the government will be making an announcement—and, as I indicated, within the fortnight—on its entire response to the issues raised in the consultation process, and indeed the issues raised by Dr Fitch.

It is interesting to note that I have been contacted this afternoon by a journalist indicating that Mr Kemp, federal minister for sport, amongst other things, has publicly commented on this report. Given that both the Commonwealth agency involved and the ACT government have agreed that the report will not be made public until it is jointly launched by both agencies, I am surprised, to say the least, that Mr Kemp has chosen to publicly comment on it. Nevertheless, the report will be made public, and I anticipate at this stage that it will be made public some time this week.

I do not want to be in the situation where I am faced with a resolution from the Assembly in which the Assembly is asking me to break an undertaking that the ACT government has given to the Australian Sports Commission. Perhaps if Mrs Dunne had done her homework a bit better she would have been aware of these circumstances.

In response to Mrs Dunne's comments, I will make only two other comments. The first is that this government has been more open in relation to the information that it has put together about its proposed alignment than the previous government ever was. For example, we have lodged on the government website every single report commissioned to date, with the exception of the Fitch report, for public analysis—not just the government's response or assessment of those reports but the reports themselves: the noise report, the engineering report, the environmental report, and all the other pieces of work that have been put together in this exercise. That is the sign of an open government and a government that is prepared to be accountable, even when those reports are not necessarily all in favour of that option.

Finally, in response to Mrs Dunne's claim that we should be building the full road, and that it is ready to go, I simply present Mrs Dunne with this challenge: shame on you, Mrs Dunne; how can you build a four-lane road for $53 million, because that is what you set aside in the budget?. You know, Mrs Dunne, and so do I, that any road engineering firm in this town that you talk to will tell you that you cannot build a four-lane road now for $53 million. You might have been able to in 1997, when you set the figure aside, but you cannot do so now. That is the bottom line.

The government will not be supporting this motion today.

MR PRATT (4.17): Mr Speaker, I support Mrs Dunne's motion. I am very keen to see what progress reports there are on the expedition of the Gungahlin Drive western extension. The community needs to know the full facts on what the likely impacts are. As shadow minister for sport, I am deeply concerned and in this place I have repeatedly catalogued the very likely impacts on our sporting institutions of the Gungahlin Drive western alignment. I am just going to talk about those again. They need to be reinforced and placed back on the record.

The western route, as far as the AIS is concerned, is unacceptable. The planned western route would cut straight through the western side of the car parks abutting the AIS. Car parks which would be displaced by that driving through of the 100-metre-wide trench

could not be located elsewhere without significant cost. Furthermore, the fact that the extension is to be driven down the western boundary of the AIS means that its planned expansion is going to be impeded. With the $65 million that the federal government has allocated for further works, the AIS had planned to expand west. It cannot expand north, east or south. There simply isn't the space. So, clearly, this trench driven down the western side is going to impede those works that the AIS must undertake. It must grow. It has got the capacity to grow. It now cannot do that.

We hear from the government that it will guarantee that the World Rugby Cup is not going to be jeopardised by the Gungahlin Drive extension. I hope that is the case. One would hope that any preliminary works conducted in 2003, in terms of works around the fringe of the AIS and Canberra Stadium, are not going to impede the planning for and then the successful running of our part of the international World Rugby Cup. If that was the case, it would be unforgivable.

In opposition, Mr Quinlan made great play and accused then minister, Jackie Kelly, of "not doing enough" for the AIS. Well, now that the federal government has allocated $65 million—a clear demonstration that the federal government is doing plenty to ensure that this national icon is maintained in an appropriate way—we see this government doing very little if anything but wreck the AIS' chances in terms of future planning and current maintenance.

It would be absolutely unforgivable if, as a result of unwise government decision making and bad planning, the future of the AIS was jeopardised and the AIS was packed up by the federal government and removed from Canberra to greener fields. One would hope that this will not be the case. I am concerned, and quite distressed really, at the shabby treatment that this great national icon of ours has received in terms of the planning under way at the moment on the part of this government. I emphasise that I am not aware of any definitive statement from the AIS or the ASC or any other federal authority they are going to move the AIS—that has not been written—but clearly the threat does exist. There has been talk about that, and so let us hope it does not come to that.

Could I move on now to the Bruce precinct. The Bruce precinct is an area which we would normally see roads built around, not through the middle of. It is a zone which encompasses the AIS, the ASC, Bruce CIT, the ASC sporting facility south of Canberra Stadium and the technology park—and all of these co-exist and support each other. And they should support each other in the future in terms of the growth that we would like to see in this precinct. The sporting, technological, sports science and sports education activities should all be able to supplement and support each other. Well, the driving of a trench through the middle of all this is going to make it a good deal more difficult to maintain that holistic approach to future development in this area, and one of the most important areas in the ACT is going to be jeopardised.

Let us talk about Canberra Stadium. Canberra Stadium is something which the previous government built and of which it is extremely proud. It is a stadium—straight faces here, Mr Speaker—of which the ACT community is extraordinarily proud.

Mr Stefaniak: Someone was just thanking me for it the other day.

MR PRATT: Indeed—and they were commenting, Mr Stefaniak, about the quality of the grass and other aspects of Canberra Stadium. The government has admitted, in the Estimates Committee and in other forums, that when this trench is driven down the western side of the AIS and Canberra Stadium, 2,000 of the 5,000 car parking spaces that exist west of the AIS and west and east of Canberra Stadium will be lost. That is irrefutable. That is good evidence given by servants of the government; they have quite clearly stated that that will be the case.

The government has then said that we don't need those 2,000 car parking spaces—that the AIS and Canberra Stadium will be happily serviced by 3,000 car parking spaces and that 5,000 car parks are not needed. That really is whistling in the wind. That full capacity—those 5,000 car spaces—is required, and those of us who regularly park at Bruce CIT and walk the kilometre to Canberra Stadium know that those car parks are essential. For the Rugby World Cup 5,000 car spaces are definitely going to be required.

We have not seen any plans from the government for where it is going to build the car parks to compensate for this intrusive program of works. We know that there is no space left east of Canberra Stadium or north east of Canberra Stadium to build new car parks—certainly not without encroaching on environmental areas along the footslopes of O'Connor Ridge. So what is the government going to do? Is it going to spend an astronomical amount of money and build a multi-storey car park to compensate for the lack of space? Well, where is the money for that? We know that there is no money in the budget, in terms of ongoing estimates for 2003-04, for the building of extra car parks.

The other thing is that, in respect of Canberra Stadium, the adoption of a western alignment will introduce new traffic problems east of Canberra Stadium. If all cars—apart from those that can be parked at Bruce CIT, so the majority of cars—are going to have to be parked on the eastern side of Canberra Stadium, if the space can be found, then the access roads coming in from the north-east will be clogged. New traffic problems will be created. This is not what we need to see if we are going to present to the world a Canberra Stadium capable of taking on board an international event such as the Rugby World Cup.

The minister has said today that the report that we are looking for is going to be issued as a joint report, a joint effort. Well, why didn't he say that yesterday in question time, when the question about it was raised?

Mr Corbell: He did.

MR PRATT: Well, I understand that he didn't. In conclusion, the Gungahlin Drive western extension is a disaster with unacceptable detrimental implications for the ACT's primary sporting activities, its institutions, and its associated activities within the Bruce precinct. We need to see now the progress that has been made. We need now to understand what the implications are going to be so that remedial action can be taken.

I support Mrs Dunne's motion.

MS TUCKER (4.26): I am not going to debate the whole question about whether we want to save the car park or the ridge. Obviously, we have already had that debate several times in this Assembly, and no doubt we will have it again. But today we are

looking at the question of this particular report. I move the following amendment to the motion:

> Omit all words before "the report", substitute "That the Minister for Planning publicly release as soon as practicable".

This amendment basically changes this motion to say not that this report be tabled today, but that the Minister for Planning publicly releases it as soon as practicable. This particular report is a joint report commissioned, as I understand it, by the AIS and the ACT government. It is quite inappropriate for the Assembly to just come in and demand that this be tabled. That is obviously something for the organisations that have commissioned the report.

Having said that, however, I think it is very important that we see the report. That is why I am putting this amendment and not just opposing the motion. I do want to see the report. I think we should have the right to see it, as should members of the community. We should see this report in an unadulterated form; that is, we see the report as it is produced.

Mr Corbell has said—I don't know if he has actually said it in this debate but he has certainly reassured me when I discussed it with him—that we would see the complete report. For me, that is quite adequate. I do not see that it is appropriate to be forcing the release of this report until the people who commissioned it see that as appropriate.

MS DUNDAS (4.29): I will be speaking against the amendment and to the substantive motion. The Gungahlin Drive extension issue seems to be the one that has generated the most hours of debate in this chamber since October last year. This Assembly has yet to settle on a route for a road that I believe should have been built years ago. I have received, and continue to receive, many letters and emails about the particular route of the road, its impacts on nearby residents and the equity of mitigation measures to be adopted along its route.

I want to be confident that permanent Canberra residents will benefit from measures addressing their concerns—measures of the same quality as any of those adopted for residents of the Institute of Sport. I have yet to see the report, but it seems to provide information on what needs to be done at the Institute of Sport.

The minister has told us today in this debate that he expects to release this report within a fortnight, which means that he will have had it for almost a month. As a member representing residents of Gungahlin and of Aranda, Bruce and Kaleen, I am incredibly interested in reading any material that assesses the impacts of the Gungahlin Drive extension and possible ways of reducing those impacts.

As the minister has said today, and as I understand, the report was jointly commissioned by the Institute of Sport and the Department of Urban Services and is designed to look at ways of reducing impacts. But we have been informed today that the report was totally funded by the ACT taxpayer, so it does not seem proper for its findings to be withheld from public view. I cannot see a sound reason—and the minister has not provided me with any—why the release of the report should be delayed. I cannot see how there could be any commercial-in-confidence or privacy concerns raised by the report, or that its

content could financially affect anyone. But we have been told that we have to await a launch, so that we can have the report and at the same time have spin associated with it delivered to the public through the media.

How much are we spending on this research around the Institute of Sport? Are we spending an equitable amount looking at the impacts on Bruce, Aranda and Kaleen? How much of the department's time is being taken up trying to fix the issues around the Institute of Sport compared to the issues that have been raised by the residents of Aranda, Kaleen and Bruce? Where is the equity for the permanent residents of Canberra? Why can't we just have this information so we can consider it as we continue to again and again debate the issue of Gungahlin Drive extension? Why does there need to be such a delay, unless the government or the Institute of Sport feels that it needs more time to spin the information that is there into something that it is not?

All members of this Assembly will play a part in the decision about the final route of the road. We will all play a part in decisions about the mitigation measures along the route. For this reason, I think it is important and proper that we be given prompt access to this report so that we can have as much time as possible—all of us as members of this Assembly—to consider what it says.

I have no idea whether or not the report actually covers this, but I would appreciate having similar information along the entire route of the Gungahlin Drive extension, from the point where it crosses the Barton Highway to where it reaches the Glenloch interchange. We need all the information we can get, to help us make our decisions.

As members of this Assembly would be aware, the Australian Democrats support the western or community option for the Gungahlin Drive extension—and from media reports I understand that the report that we are debating today does not actually look kindly on the western option. But I am keen to be fully informed. I am not afraid of reading this report. I hope that the government is not afraid of releasing it.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (4.34): Mr Speaker, the government will be supporting Ms Tucker's amendment, because I think Ms Tucker recognises that the government is acting in good will and in good faith on this issue.

Let me just make the point about time limits. Is this report being held onto for an inordinate amount of time? Well, as I indicated in my speech, the final copy of the report was provided to the Department of Urban Services on 16 September, that is, Monday of last week, and the government proposes at this stage to release the report next week. So within three weeks of receiving the report and having considered the issues it raises, the government is going to release the report—the full report as presented by the consultant. So, with all due respect to Ms Dundas, I fail to see how a period of less than three weeks from receipt of the report until presentation of the report is in any way an attempt to delay its release.

The government is entitled to consider the issues raised by the report—the report that it commissioned—and then to release its report and how it proposes to respond to the issues that are raised in the report. Let me put it to you, Mr Speaker: as soon as this report is released, everyone will be asking, including Mrs Dunne and Ms Dundas, "What

are you going to do about these issues?" Well that is why we are releasing our response at the same time as we release the report—so that you know what the government is going to do about these issues, and so that you can make your judgments about whether or not you believe that is appropriate.

But less than three weeks from receipt to release is not the sign of a government seeking to hide something. It is the sign of a government prepared to act in good faith, and to release the report as soon as possible. I indicated in my earlier speech that the government would be opposing this motion. The government is prepared to support this motion provided that it is amended in accordance with Ms Tucker's amendment, and we will be voting for that amendment.

Finally, Ms Dundas said she would like to see this sort of assessment done on the entire route of the road. Well it has been, Ms Dundas, and it is on the web. The noise studies, the environmental impact studies, the engineering studies are all publicly available now. The impacts on residences along the route are on the website now. The government has put all of the information up. All of the information is available, including all of the consultants' reports. I have to say, where residents have questioned the accuracy of the consultants' reports, the government has facilitated meetings between those residents and the appropriate consultants, in particular the noise consultant, so that they can put their questions directly to the consultant on the issues that have been raised.

This is a government that is prepared to engage in this debate, and it is prepared to facilitate the maximum amount of information possible in the debate. It continues to be our approach. We seek to have a collaborative approach on what is a very difficult issue, but an issue which we believe is important in addressing the transport infrastructure needs of the city, and of Gungahlin residents in particular.

MR STEFANIAK (4.38): I will speak to both the motion and the amendment, although my colleague Mrs Dunne will be making some comments about the amendment, so I think I will leave that to her. I note that the minister is saying yes, he accepts the amendment; he wants to release the information he has had now for three weeks—

Mr Stanhope: He's had it a week.

MR STEFANIAK: You've had it a week, have you? Right. But you are going to release it with a government response. Really, I cannot see any reason why it cannot be released now and you can do your response later, minister. Surely that is consistent with the open government you purport to be.

What I have actually seen of the report indicates—and I think a *Canberra Times* article of a couple of days ago also indicated this—that this report seems to very much support the eastern route. I just wonder how much longer we are going to have to put up with this minister's pig-headedness in terms of the western route.

I think it should become painfully obvious now to this government that the eastern route is the best route. My colleague Mr Pratt has given a very good expose, I think, of the effect the western route has on the AIS—facts that were known to everyone in this place as early as last year when the committee looking at it heard from the AIS. But that seems to be ignored in terms of what the preferred route should be.

I take objection to a terminology used by Ms Dundas. I think she used it quite innocently and it is terminology that has been used for some time now in reference to the western route, and that is calling it the community option. I know Ms Dundas supports—I think she still does—the western route. Hopefully she might change her mind with this information, if we ever see it. But I think to call it a community option is a bit of a misnomer. I think the vast majority of Canberra citizens, the Canberra community, would be appalled if the AIS left town. I think they would also be appalled at the damage which would occur if the western route were in fact to proceed—not only the damage that would be caused if the AIS left town or even if its operations were substantially interfered with, but also the adverse effect that would have on the whole Bruce precinct; the effect it would have travelling so close to the Bruce CIT; the effect it would have on development, not only by the AIS but by Fern Hill estate and some of the other precincts around that part of Bruce if a great road was to go slicing right up the middle of what is now the car parks.

Also—and this is something I actually haven't heard much of in this debate, and we have had it a few times—the western route will go very close to Calvary Hospital. Having been there recently when my wife was ill—

MR SPEAKER: Mr Stefaniak, would you mind turning to the issue of the tabling of the report, as mentioned in the motion—relevance.

MR STEFANIAK: Yes, Mr Speaker. I have mentioned that. I think it is very important that this report be tabled, simply because we have had an inkling already through the paper of what it says, and because of that crucially important issue of which route is better, east or west. This report, which we would very much like to see to elaborate on what we have seen already in the paper, quite clearly seems to indicate—and I am only going on the newspaper article; it would be much nicer if we had the report—that the eastern route is better.

I would much rather see the report than just rely on the *Canberra Times*—even though Mr Stanhope regards it as a quality newspaper. I would much rather actually see the report itself. I think if that report were tabled today it may well show that the *Canberra Times* report is actually quite accurate in terms of saying that this report, which was commissioned by both the AIS and the government, quite clearly shows that the government's preferred option, the western route, ain't the best route; it is the eastern route. That is why I want to see the report, and I do not particularly want to await the minister tabling this report at his leisure. I would like to see the report now.

Consequently, I think Mrs Dunne has brought forward a very good motion that is deserving of the Assembly's support.

MRS DUNNE (4.42): On Ms Tucker's amendment: the Liberal Party will be opposing Ms Tucker's amendment because it does not do what the original motion intended to do. The original motion intends to bring forward the report now so that the scrutiny of the people of the ACT, through its elected representatives, can be brought to bear without, as Ms Dundas says, the spin of the government or the Institute of Sport.

While I am on my feet I will acknowledge that I seem to need to make a mea culpa; I seem to have got it wrong. I thought that this report was jointly funded by both the ACT taxpayers and the Institute of Sport. But if it is the case that it is solely funded by the ACT taxpayers, it more than strengthens my argument that the people of the ACT deserve the courtesy of being allowed to see what they have paid for. It was interesting to note that, in support of Ms Tucker's amendment, the minister said that we could not bring it forward now because he had come to an agreement with the Institute of Sport as to the timing of the release.

Mr Pratt took him to task over this and asked why he didn't tell us that yesterday in question time, to which Mr Corbell interjected that he did. I read from the draft *Hansard* from yesterday's question time when Mr Corbell said, "I'm quite happy to answer the question," which was the question that I had asked him about whether he would release the report. He went on to say a few rude things about me, which is par for the course, and then he said:

> Mr Speaker, the government has considered all the issues raised both in the general consultation processes that have been held to date and in relation to the specific issues raised by Dr Fitch in his study.
>
> The government will be announcing its response shortly and will be releasing full details of its response and will be releasing a full copy of the report.

That is all the minister said. He did not say yesterday that he had an agreement with the Institute of Sport. This is the first time that this piece of information has come to our attention. Irrespective of that, it is an agreement that should not have been made, because this is a report paid for by the people of the ACT—on an issue which has generated so much debate over so many years. This is a report that we have been holding out to see. This has been holding up the planning process, coming to this agreement with the Institute of Sport.

The people of the ACT deserve to see it now. It deserves to be scrutinised by their elected representatives. It should not be released out of session. It should be released now. That is why I cannot support, and the Liberals cannot support, Ms Tucker's amendment to this motion.

Question put:

> That **Ms Tucker's** amendment be agreed to.
>
> The Assembly voted—

Ayes, 8		Noes, 6	
Mr Berry	Mr Stanhope	Mr Cornwell	Mr Stefaniak
Mr Corbell	Ms Tucker	Ms Dundas	
Ms Gallagher	Mr Wood	Mrs Dunne	
Mr Hargreaves		Mr Pratt	
Ms MacDonald		Mr Smyth	

Question so resolved in the affirmative.

Amendment agreed to.

Motion, as amended, agreed to.

Disallowed question

MR SPEAKER: Members, earlier today during questions without notice Mr Pratt asked a question concerning the application of the law of the territory to a situation where a mother lost a baby as a result of a hit-and-run accident. I ruled the question out of order as our standing orders prohibit questions that ask ministers for a legal opinion.

I have since considered *House of Representatives Practice* where, at pages 530 and 531, a background to the relevant practice in the United Kingdom House of Commons and the House of Representatives is given. That authority states that questions asking whether legislation existed on a particular subject have been permitted, although the text goes on to state that the Attorney-General had answered a question on notice which did not explicitly seek a legal opinion stating that he did not consider it appropriate to provide the substance of a legal opinion in response to a question on notice.

I reiterate my ruling, especially given the Attorney-General's statement that he would have to seek a legal opinion to respond to the question. However, I would ask members to be careful in drafting their questions and seek advice if necessary prior to asking them.

Magistrates Court (Refund of Fees) Amendment Bill 2002

Debate resumed from 26 June 2002, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.51): Mr Speaker, the government broadly supports the amendment and the bill introduced by Ms Tucker. However, we believe that a further amendment is appropriate if Ms Tucker's proposal is to function as well as it might.

As members will recall, under Ms Tucker's proposal for amendments to the Magistrates Court Act relating to payment of costs in the Administrative Appeals Tribunal, the full financial impact of the appeal would fall on the public purse, as it would be the courts that would make the payment.

It is the view of the government that that is not the most appropriate scheme. There is a principle of fiscal responsibility: the government believes that the losing party should pay. In the ACT this would not always be the ACT or the territory government. For example, in an action between a person and the Agents Board in which the person is successful, there is no reason why it should not be the Agents Board which pays the cost rather than the public purse.

In place of that scheme, the government proposes an option that we believe will maintain the integrity of the proposal of Ms Tucker. Accordingly, the government proposes a simple amendment to Ms Tucker's amendment, which moves the financial burden resulting from the appeal, small though it might be, to the losing party.

It is important that the tribunal deal with the issue of whether the proceedings have ended in a particular party's favour contemporaneously with its decision on the matter in dispute. I am pleased to note that Ms Tucker supports this approach and that this will be included in her amendment to her bill. The government supports Ms Tucker's proposals in relation to costs in the Administrative Appeals Tribunal.

MS DUNDAS (4.53): I rise to strongly support this bill and to endorse the points Ms Tucker made in her introductory speech. Access to the courts is a fundamental part of our democratic system. Voters entrust the government with the power to govern but on the condition that the government acts within the law.

The courts are there as a forum where a citizen can obtain an independent determination about whether the government has in fact acted within the law. In an ideal world, access to the courts for appeals against government decisions that adversely affect a citizen would be entirely free.

However, experience has led parliaments around Australia to introduce lodgment fees to reduce the number of frivolous appeals with no prospect of success. If lodgment fees were abolished entirely, we might have to increase the number of tribunal members and judges to cope with demand from vexatious litigants, and this would not be the best use of taxpayers' money.

However, it is important to keep the impediments to lodging court cases to the absolute minimum necessary to discourage frivolous cases. Where an appeal case has been proven to the satisfaction of the Administrative Appeals Tribunal, there is no apparent reason why the territory should retain any money from a citizen who appealed the government decision that the tribunal has then overturned.

Appellants often bear substantial costs in preparing appeal documents, even where they do not stand to benefit financially if they are successful. Arguably, our statute book should go further and provide that the territory always be required to pay any costs incurred by the appellant in preparing their case, if the appellant does then succeed. This goes beyond the scope of Ms Tucker's bill, which certainly restores fairness to the current administrative appeals process.

MR STEFANIAK (4.55): The opposition will also be supporting Ms Tucker's amendment to the Magistrates Court Act. We think it is a sensible amendment. In fact, this amendment and her bill bring the provisions for the ACT AAT into line with the federal AAT. That is sensible and very consistent, and that is why we will be supporting her bill and her amendment. I have some sympathy for the government amendment, in that it will invariably be an agency that loses in the appeals court and will pay for its own stupidity.

Most recently, I assisted a person who had allegedly been stuffed around by PALM for several years. He went to the AAT and seemed to have quite a good hearing. I am not sure how it went, but that person told me that he and his wife had lost about $20,000 through problems caused by a government agency. We are now waiting to see whether his appeal to the AAT is upheld, but at the very least he should be entitled to have his application fee refunded, which I understand is $260 in the ACT. It might have gone up.

Ms Tucker's bill will have that fee refunded. The fee is paid to the registrar, hence the registrar is the one who has to refund the money. That is logical: basically a straight in/out. The citizen who is successful is therefore not out of pocket. With Mr Stanhope's amendment it would be the other party who would pay the application fee to the applicant.

That is also a nice, clever way of ensuring that the applicant is not out of pocket and that the initial money paid in for the application stays with the government and the territory gets a little bit of extra money—although, given that most of the agencies who would be at fault here are government run, they would have to pay. So there is a bit of robbing Peter to pay Paul there. It would invariably come out of government coffers anyway—except for occasions when someone else was at fault—albeit from a different agency.

At the end of the day, it does not matter a huge amount but, for the sake of consistency with other AATs and especially the federal AAT, what Ms Tucker is proposing by her amendment is preferable. At the end of the day, it will be the person who takes their grievance to the AAT who will benefit from this. It is only fair.

What the government is proposing is a similar sort of situation to that in the Small Claims Court—it is a different court, but a similar situation—which, again, is meant to be lawyer free. It is not; you cannot get legal costs if you win there. But at least there is provision in the Small Claims Court for the winning party—the plaintiff—to get the court fees they lodged refunded as well as the judgment debt.

I can see the logic in what the Chief Minister is proposing, but at the end of the day in this court it will still invariably be a government agency that pays. I do not think there will be any real net gain to the community.

I think Ms Tucker proposes something that has been applied before. I think at one stage the AAT did have refundable fees to successful applicants, and that is what the federal AAT does.

I am a little concerned—it is only a minor concern—that in Ms Tucker's amendment the registrar "must" refund the determination fee, as opposed to "may" in the Chief Minister's amendment. "Must" could include situations where the applicant might win but win on such a technicality that, in terms of the substantive issue, the agency may be ordered to pay the fee.

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 STEFANIAK: There could be the occasional situation where an applicant who might win on a technicality and might not be super deserving could get some money back because of Ms Tucker's amendment. In a court like the AAT, though, that is fairly unlikely.

It is not like successful defendants who had been almost dead drunk getting off PCAs on technical points, as occurred in the late seventies and early eighties, until the breathalyser legislation was finally amended. I can recall some of those days towards the end of that time, when my old sparring partner, the now Justice, Terence Higgins, used to run a lot of those cases and was quite successful on technical points. I think I did the last couple of unsuccessful cases run by him when the legislation was finally getting fixed up.

There were cases where successful parties sometimes did not deserve to have their fees compensated simply on a technicality. I doubt, in the AAT, whether we really see much of this, so it is probably not a terribly relevant point. But in the Chief Minister's amendment I still like the fact that it "may" order another party. There is a discretion there.

If the Chief Minister's amendment gets up, I hope that discretion will be exercised in favour of the applicant if the applicant wins and is deserving of it. I would certainly like to see that treated in a restrictive way. From what I can gather, Ms Tucker might be supporting the Chief Minister's amendment. She is; she is nodding her head. It looks like that one is going to get up.

I hope that is not going to impede a successful party getting the money if they deserve it; and I trust that, if for some reason they do not deserve it, that discretion will be used. I think that is a good thing.

To conclude, we in the opposition prefer Ms Tucker's bill, with her amendment. It is simple, and it brings us into line with the AAT. It is consistent with the practice there—and I have already stated the reasons for that. We will be opposing the government's amendment and supporting Ms Tucker's amendment. But I can count, and I know exactly what is going to happen here. At the end of the day, I think the result will be a good one for applicants who at present forgo their fee when they go to the AAT, and go for very, very good reasons.

MS TUCKER (5.03), in reply: I will just thank members for their support, having made the points already in my tabling speech.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4.

MS TUCKER (5.04): I move the amendment circulated in my name *[see schedule 1 at page 3269]*.

This amendment was prepared in response to a scrutiny of bills committee report on the bill. The committee pointed out that it might be better to give the tribunal the power directly to determine whether the fee should be refunded to the successful applicant rather than give this power to the registrar, as currently stated in my bill.

To do this places the power in the hands of the body best suited to apply the test to the facts of the case and will achieve a speedy and clear resolution of the issue of whether the applicant is entitled to a refund.

This approach is also consistent with a comparable provision in subregulation 19 (7) of the Commonwealth Administrative Appeals Tribunal Regulations 1976, where a person who has paid an application fee is entitled to a refund of the fee if the tribunal certifies that proceedings have terminated in a manner favourable to the applicant.

My original wording was designed to be consistent with the wording of the rest of this part of the Magistrates Court Act, where the registrar has various other powers in relation to fees, but I do accept that the approach in the Commonwealth regulation is probably more effective.

At this point, I might just comment on the foreshadowed ALP amendment to my amendment. The ALP amendment changes my bill so that the AAT may order another party to the proceedings to pay the application fee to the successful applicant rather than have the registrar refund the fee. I understand that, in practice, this would be the original decision maker who made the decision that was appealed against—for example, PALM or the Commissioner for Planning or the conservator.

My key objective has always been that the successful applicant get the refund, so I am not really concerned about which part of government pays for the fee refund. However, if the ALP amendment is going to make it easier for the government to administer this initiative, I am happy to support the ALP amendment.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.05): I move the amendment, circulated in my name, to Ms Tucker's amendment *[see schedule 2 at page 3269]*.

This amendment modifies the operation of clause 4 of the bill to provide that the Administrative Appeals Tribunal can, after the finalisation of proceedings, order a party to pay the amount of the application fee of the applicant. This amendment will move the financial burden resulting from appeals, small though it might be, to the losing party. Without this amendment, the financial burden would be on the public purse.

Mr Stanhope's amendment agreed to.

Ms Tucker's amendment, as amended, agreed to.

Clause 4, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

Childhood obesity

MR PRATT (5.06): I move:

> That the ACT Legislative Assembly:
>
> (1) condemns the Labor government for abandoning the Health and Physical Fitness Assessment Program commissioned by the previous Liberal government.
>
> (2) urges the government to give priority to implementing a program which addresses the increasing problem of Childhood Obesity and includes promoting the implementation of healthy food campaign in all school tuckshops.

Mr Speaker, as a parent and as shadow minister for education, I am concerned about the stark facts that we face in regard to childhood obesity, and I will continue to pound this message until the government decides that it is within the best interests of the community at large, and of our kids, to do something about the problem as a matter of priority, as a matter of urgency. I am also concerned about the level of fitness amongst ACT schoolkids. I am appalled at the apparent lack of interest the government has shown thus far in regard to this matter. It seems to me that the welfare of these children should be given a higher priority.

As I have outlined before, in the past two decades the number of obese Australian children has doubled. Indeed, recently the Dieticians Association of Australia talked about a tripling of the rate in the decade from 1985 to 1995. That is a fairly significant number. The previous government recognised this problem and made moves to do the best by our kids to try to tackle the problem. The previous Liberal government took necessary steps and initiated the establishment of an assessment program to determine the real situation. This process was put in place and was due to commence early this year.

But this government has cancelled the process, mumbling something along the lines of needing more information and waiting for the outcome of current inquiries. What evidence, what information, does the government need? What has to happen before the government acknowledges the seriousness of this problem and actually gets on with the job of trying to implement measures to fix it?

There is a surfeit of information out there in the community. There was in 2000; and there was in 2001. There was plenty of information for the government to pick up on. The government could have hit the ground running in early 2002 to get out there and assess the real levels of health and fitness in our schools and they didn't.

Mr Speaker, whilst I understand that the Assembly's Standing Committee on Health is reviewing related issues, which may well touch on childhood obesity, the inquiry will not necessarily be prescriptive enough with respect to the school environment. Time passes

while the problem escalates. I am not criticising the committee's inquiry—they have, rightly, broader terms of reference. But the government does not need to await the outcome of this committee inquiry to get on with tackling child obesity. As I was saying, there has been plenty of information in the public arena for a long time. Therefore, I would maintain that the government is prevaricating. The government has lost time and it continues to lose time when there exists an urgency to get moving on this issue.

There are so many problems which stem from childhood obesity and lack of physical fitness amongst school-age children, and this was pointed out earlier today by Ms Gallagher when she touched on this subject. For the child, these include the obvious physical difficulties, lack of self-esteem, lack of motivation, victimisation by peers, depression, as well as numerous other behavioural problems and health problems. In the long term there are also ongoing problems which an adult who suffered childhood obesity will face. These include ongoing dietary problems—and we now have significant evidence to suggest that an adult's dietary pattern is established during or by early adolescence; ongoing obesity problems; the development of coronary problems; and various other health and psychological problems.

The wider community also faces problems in regard to childhood obesity. In the schoolyard these include issues like disruptive behaviour and lack of participation. In economic terms there is the burden of the high cost of health on the community as well as issues surrounding employment prospects. Therefore, action taken now surely is not only a short-term investment in the future of our community and our kids but, in strategic planning terms, it will work to alleviate the future burden on society.

I believe that the decision by the government to cancel the health and fitness assessment program—a program which aimed to deal with this problem; to deal with it now—was irresponsible. Furthermore, I believe that there is an urgent need to address this problem and provide solutions. As I said in my interview with the *Canberra Times* earlier this week—by the way, an interview criticised as being simplistic; a silly and unhelpful criticism—I believe that action could start by reducing the provision of junk food and fizzy drinks in school tuckshops. Kids spend 30 per cent of their woken hours at school and eat about 40 per cent of food not prepared at home from the school tuckshop. I believe that the school tuckshop, which is part of our kids' culture, should be encouraged to lead by example and promote healthy food and good nutrition. It would be a start—perhaps it is a small simplistic start but it is step in the right direction.

Mr Deputy Speaker, our kids need a good health and fitness program and they need a healthy environment at school which demonstrates high standards. They need that now—they needed it yesterday, for God's sake!—and, for this reason, I commend this motion to the chamber.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.13): Mr Deputy Speaker, the government will not be supporting the motion moved by Mr Pratt today but I foreshadow that at the conclusion of my comments I will move an amendment to his motion.

I would like to address the points raised in Mr Pratt's motion. First of all, Mr Pratt asks the Assembly to condemn the government for abandoning the health and physical fitness assessment program commissioned by the previous government. For the record, the

government decided not to proceed with the 2001 tender for a health and fitness assessment program in primary schools and tenderers were advised of this decision. The reason this was done was that the Standing Committee on Health was conducting an inquiry, including extensive community consultation, into health issues of school-age children.

One of the issues the Assembly committee is inquiring into is the adequacy or otherwise of health and fitness programs in ACT government schools. I felt that it would be pre-emptive for this government to embark upon a particular course of action and commit taxpayers' funds to a specific project which may or may not be at odds with the recommendations of the Assembly inquiry. In the interests of responding seriously to the Assembly's recommendations, through its committee, we chose to defer the decision on a tender for the health and fitness assessment program.

Mr Deputy Speaker, it should be noted, though, that for each public school student in years K to 10 there is currently a mandatory period of time devoted to the areas of health, physical education and sport and recreation. Students from kindergarten to year 2 are required to participate in 20 to 30 minutes of physical activity per day. Students in years 7 to 10 are required to participate in a minimum of 180 minutes per week, of which 150 minutes must be active physical education, including sport.

As well as this, in our public schools teachers conduct a number of other programs. Many schools engage outside agencies to help run specific health, physical education and sports programs. For example, sport development officers from community sporting organisations work in schools to promote their sport and help schools by providing additional physical education opportunities for students.

Schools also participate in annual health and fitness events. For example, the PE and sport unit of the Department of Education, Youth and Family Services coordinates health and PE week every year in conjunction with the Australian Council for Health, Physical Education and Recreation and a number of other agencies. In addition, many schools also visit outside venues, such as the Life Education Centre or the Birrigai outdoor school, to enrich existing school programs in the areas of physical activity, diet and environment.

I would like to emphasise that the problem of childhood obesity is not a matter that can be simply and miraculously fixed by schools. It is a whole-of-society issue. There are no simple answers; it is very complex. Perhaps each of us here should reflect on the amount of time we devote to keeping ourselves healthy and fit before we simply say schools have to fix this problem. We all know it is more complex than that. We all know that the role of parents, the role of advertising, the role of many other factors, has an impact. But that is not to say it is not important for the education system to try to address these issues as much as it can, and I have outlined already a number of the initiatives the government undertakes in this regard.

It is vital, though, that the whole community works together to encourage children to develop the kinds of lifestyle habits that will allow them to become healthy adults. It is vital that we as a community encourage our children to make informed and responsible decisions which will influence their health throughout their lives. There is increasing recognition of the importance of living an active healthy life and of the need to make informed and responsible decisions.

National data indicates that obesity in school-age children is increasing at a significant rate. Certainly, as I have indicated, our schools take this problem very seriously and, to that end, health and physical education programs in schools aim to give students the knowledge and practical skills to meet these needs and develop a good quality of life. School programs in the ACT public education system include dietary intake and the promotion of physical activity to improve the health of school-age children. Some schools run school-based breakfast programs to help improve dietary intake. Kootara Well at Narrabundah Primary School is a great example of this.

Schools also aim to provide a range of healthy foods at school canteens. The government is already working in schools through the ACT Community Affairs' tougher talk in schools program to encourage healthy food choices. This has been supported through a HealthPact grant. In addition, the ACT Canteen Coalition is attempting to implement a canteen accreditation program whereby school canteens and staff receive rewards by selling healthy food choices. HealthPact provides funding to schools through its ACT school canteen project with the aim of improving the variety and nutritional value of foods sold in ACT school canteens.

So as you can see, there is a wide range of initiatives in place, all working towards the issue of addressing child health and physical fitness issues in our schools and seeking to counteract the significant increase in the rates of childhood obesity. There are no simple solutions; there is no magic bullet. But there is a diversity of responses already in place and the government will seek to enhance those, build on those and make them even better once we have heard the response of the Assembly inquiry.

Mr Deputy Speaker, I would now like to move an amendment to Mr Pratt's motion. I move:

> Omit all words after "Assembly", substitute the following:
>
> "(1) Notes that the ACT Government has deferred further policy action relating to the Health and Physical Fitness Assessment program until after the Assembly inquiry into the Health of School Children in the ACT has reported to the Assembly; and
>
> (2) Once the Assembly Inquiry has reported the ACT Government will move to develop an integrated policy response which includes the increasing problem of childhood obesity.".

MR DEPUTY SPEAKER: Has the amendment been circulated?

MR CORBELL: Not yet, Mr Deputy Speaker.

MR DEPUTY SPEAKER: The amendment will be circulated while the next speaker is speaking.

MS TUCKER (5.21): I foreshadow that I will be supporting Mr Corbell's amendment. As chair of the Standing Committee on Health, I would point out that the committee is looking specifically at this question. Obviously, the Assembly supported the reference to the committee of an inquiry into these questions.

Quite an amount of evidence has been given to the committee, including evidence on the question of fitness testing, and I am certainly not going to pre-empt what the committee will be recommending in regard to this issue. All I want to make quite clear is that this work is being undertaken and it would be pre-emptive if I spoke to the motion that is before us today before we have completed our report.

I accept that this is an important issue and I understand Mr Pratt's concern about it. That concern is shared by everyone in the Assembly. That is why there was support to set up the inquiry that is being carried out by the Health Committee. I look forward to tabling the report in this place, which hopefully will inform government policy in this area.

MR STEFANIAK (5.22): Mr Deputy Speaker, I will speak to Mr Pratt's motion. I haven't seen the amendment.

MR DEPUTY SPEAKER: It is being circulated now.

MR STEFANIAK: I listened upstairs with interest to what Mr Corbell was saying. I would agree with Mr Pratt's motion. I am well aware of the history of this matter and I am quite delighted and amused that Mr Corbell referred to the "government programs"—"government initiatives", he might have even said—which included the compulsory 150 minutes of physical activity a week for students in year 3 to year 10 and, of course, the compulsory 20 to 30 minutes a day for kindergarten to year 2.

This was an initiative of the previous government and an initiative of mine, as minister. It is one of the initiatives I am most proud of and it involved a lot of consultation with teachers. In fact, I think Mr Corbell's predecessor, Ms McRae, who was then the opposition spokeswoman, was on a group looking at that; as, I recall, was Ms Tucker. They both had some reservations about it and, I must say, the department did at the time, too. But I think a good program was initiated as a result—a program that didn't get fully off the ground until 1997 because of the industrial troubles in 1996.

I was pleased to hear the minister acknowledge the list of things that the education department is doing. They are good things and I think they are better than what is being done in most other parts of Australia. But we still have this problem, and growing problem, of obesity.

I am concerned about the complete inaction in taking the logical next step of assessing physical fitness amongst our children and discreetly assisting parents in various ways in how to overcome it. I think Mr Pratt's motion is a good one because, firstly, it condemns this government for abandoning the program we commissioned and which should have been brought in towards the end of last year, and I will get back to that in a second. Secondly, the motion urges the government to give priority to implementing a program which addresses this problem and which includes promoting the implementation of a healthy food campaign in all school tuck shops, and that is a sensible thing, too.

The fitness program was tendered out because it was more than $50,000 a year.

Mr Hargreaves: It wasn't tendered out.

MR STEFANIAK: Yes it was. A tender was sought.

Mr Hargreaves: No it wasn't. It was a single thing without tendering.

MR STEFANIAK: Application for tenders. Don't be silly John, I know all about it.

Mr Hargreaves: A single contract without tender.

MR STEFANIAK: No, it wasn't. Not the health and physical fitness assessment program. A tender was issued for the very reason it was more than $50,000. There was one particular proponent—Mr de Castella's group; I don't know what it is called. This particularly good proposition does apply in a number of government schools on an individual basis and certainly in a number of non-government schools which pay him a fee. But it was put to tender because more than $50,000 was required. That was appropriate and was within the guidelines.

I don't know how many people put in tenders—this was about August to September last year—but I can recall there are a couple of other groups who would be quite capable of doing that, too. So, (a) I think the tender satisfies the tender guidelines, and (b) there are obviously other people or other groups who could do this as well as the group which is currently doing it on a fee-for-service basis in some government schools and also in some of the non-government schools.

I am concerned that attempts were made, even in the dying days of the last government, by certain elements to slow it down. I think more and more people wanted to be included in the process. I was concerned that I had detected then perhaps a reluctance by maybe some people in the department to give this the priority I think it obviously needs. Therefore, it doesn't really surprise me, given the reluctance the Labor opposition had to the physical fitness program I introduced at the end of 1995, to see this government abandon the health and physical fitness assessment program.

The process of implementing this program, which is so important in combating things like obesity, should not have been slowed down. Like any other normal process, it should have proceeded to a relatively speedy conclusion. If that had happened, we wouldn't be arguing this point here today.

A number of groups slowed it down and I think the P&C would have been one of them. It is a good program and I don't really mind either way who ultimately does it. There are a number of agencies who can. But I think quite clearly the program takes one step further the good work that has already been done in terms of compulsory physical fitness. Obviously, the government is going to vote against the motion so it will go down.

Mr Pratt's motion is a good one. I think it is terribly important that a program like this be implemented because it would enable students to be monitored and families to be assisted on a confidential basis. Under the program, students would be retested to see how they were progressing. It is part of a holistic approach to improving the health of our kids, which is just so terribly important.

As we heard during previous debates on this issue in this place, there is ample evidence to show that if you are healthy you can do your school work better, you obviously have a lot more self-confidence and self-esteem, and you are less likely to get into trouble. There are just so many positive aspects of a good, healthy, physical lifestyle for young people. That is why this is so crucially important.

In the last few months we have seen scary figures that show the increase in the percentage of young people who are going to suffer from obesity and who will be at risk of heart attack in later life. This problem needs to be addressed and given a number one priority for the sake of our young people and, indeed, of society generally. What we are seeing threatens the very basis of what Australia is going to be like 20, 30, 40 years down the track, and we should be doing anything we can to assist in addressing this problem.

I am happy that Ms Tucker's committee is looking at a number of these issues. Obviously, things like healthy foods are very important and I know that that is something she is looking at. The first motion that came before the Assembly today called on her committee to also look at the adequacy of children's television standards, with particular reference to junk food advertising. I think that is a good reference.

I think it is terribly important that this program gets back on the rails. It is an integral part of a holistic approach which will assist in reducing levels of obesity and improving the health and physical wellbeing of our students. This is something that I certainly wanted to see happen in the government schools. I am disappointed that it has been slowed down and now put on hold, pending the report of the committee. I think the arguments are good enough to warrant the program being proceeded with, without it being put on hold to await the committee's report.

The program speaks for itself and there is a lot of information available. The process was started and it should have been completed. I think the program is worthy of support, as will be the case, obviously, with what comes out of Ms Tucker's committee. But I think the program can be dealt with separately from what is being done by the committee. I would certainly urge the government to restart the program. Don't put it on hold, because it is terribly important.

You really do need to do something because this is a huge problem now and it is not going to get any smaller. That is probably a very bad choice of words when you are talking about obesity, but this is such an important issue and the problem will get worse if something isn't done now.

Question put:

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

The Assembly voted—

Ayes, 9		Noes, 5
Mr Berry	Ms MacDonald	Mr Cornwell
Mr Corbell	Mr Stanhope	Mrs Dunne
Ms Dundas	Ms Tucker	Mr Pratt
Ms Gallagher	Mr Wood	Mr Smyth
Mr Hargreaves		Mr Stefaniak

Question so resolved in the affirmative.

Amendment agreed to.

MR SPEAKER: Mr Pratt, do you want to say anything further?

Mr Pratt: I think it would be pointless, Mr Speaker.

MR SPEAKER: Thank you, Mr Pratt. That was easily understood.

Motion, as amended, agreed to.

Land (Planning and Environment) Amendment Bill 2002

Debate resumed from 20 February 2002, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.35): Mr Speaker, the government generally supports the bill that Ms Tucker tabled in the Assembly earlier this year. The bill changes procedural requirements for the assessment of applications to make minor amendments to development approvals under section 247 of the land act and make decisions to approve applications notifiable to any person who objected to the proposal. The amendment proposed by Ms Tucker restricts the circumstances in which an amendment may be considered to be minor.

The bill reflects a twofold concern expressed from time to time by members of the community about the nature and extent of amendments, and these are changes with which the government largely agrees. In particular, the bill reflects concerns that decisions to amend approvals on the basis that the change is minor may, on occasion, meet with disagreement that the change is, in fact, minor and that, in some cases, a series of amendments that are minor if considered in isolation may have a significant cumulative effect.

Mr Speaker, the effect of the provisions of the bill can be summarised as follows. Clauses 1 to 3 are mechanical clauses, providing for the commencement of the amendments and the naming of the bill and the act being amended. Clause 4 makes an important change to one of the criteria for deciding whether a proposed amendment to an approval is minor. The existing provision, at paragraph 247 (2) (c) of the act, requires

that the change would not cause a significant increase in detriment to any person. Ms Tucker proposes to amend the criteria to require that the approval does not cause an increase in detriment to any person or the environment. The amendment to add a reference to the potential detriment to the environment of the proposed approval is, obviously, a new requirement.

Clause 6 inserts an additional notification requirement, to apply when an amendment has been made to an approval. The approving authority is to notify each person who had objected to the grant of the approval. Clause 7 is a transitional provision, making it clear that the changes apply only to applications made on or after the date of commencement of the amendments.

Mr Speaker, the government will be supporting this bill with one qualifier. We will not be supporting clause 4 of the bill, which is about the proposed increase in detriment. Paragraph 247 (2) (c) of the act was drafted with the intent of making clear the position that, while it can be argued that any amendment to an approval is likely to have some effect, however small, on a person, the change may be made if that effect will not be substantial or significant.

For example, an amendment to an approval may involve only a very small change to the location of a window or a door. It is most important that the paragraph be read in conjunction with the other criteria for deciding to approve a minor amendment. The approving authority must be satisfied of the nature of the amendment in respect of those other criteria, which are that the amendment, firstly, will not change the effect of a condition of the original approval and, secondly, does not change the kind of development proposed.

The provision recognises that, where any decision is to be made involving threshold criteria, judgment must at some time be exercised by some person. In most cases, it is not possible to say with absolute certainty that no person will be affected in any way by a development. In fact, it is almost certain that some person will be affected by any development activity.

It is important to note that under appendix 1, matters for consideration, to the Territory Plan, the first matter to be considered is any significant effect that the development may have on the environment. In fact, several of the matters for consideration focus strongly on environmental protection, so these are already, in essence, in effect in our legislation. Section 247 will only allow a change to an approval if, broadly stated, the nature of the development is not changed and if the effect of any conditions is not changed.

Any environmental issues raised in respect of the first approval would be protected by those requirements. The reference in Ms Tucker's proposed amendment to the effect of the change on the environment, in effect, duplicates these existing provisions in the Territory Plan and the land act. Protection of the environment should be treated as a general requirement for all development approvals. That is why it is a matter for consideration under the Territory Plan.

The AAT review process has always sought to address the question of equity between developers and residents, while ensuring that there is sufficient substance to an objection to discourage frivolous or vexatious challenges. The objection process is one which must

be handled appropriately and should be handled in a way that allows people with any significant impact on them, potentially detrimental impact on them, to have the question and the proposal reviewed.

Mr Speaker, if passed, Ms Tucker's amendment to paragraph 247 (2) (c) would render any minor amendment capability virtually unusable. There would be no scope for making non-minor amendments. Therefore, the government will be opposing this part of the bill, not only because it would make the existing amendment system unusable, but also because it is at odds with the reconsideration provisions in the Planning and Land (Consequential Amendments) Bill 2002 which I will introduce tomorrow.

In relation to some of the other provisions of Ms Tucker's bill, subsection 247 (3) of the land act currently requires notice of a minor amendment to be given to the applicant for the amendment, the lessee and any relevant territory authority. Ms Tucker's bill inserts a new requirement that the authority give notice to any person who objected to the original approval. The amendment would improve the transparency of the development assessment system and it would be appropriate to support it. The government will be supporting it.

Mr Speaker, it should be noted that the notification requirement applies after a decision has been made on the minor amendment. It is not a notification for the purposes of seeking comment. This is consistent with the notion that what is being approved is only a minor change and objectors are being notified so that they will be aware of the conditions of the approval. It should also be noted that third parties may not appeal to the AAT against an approval of a minor amendment, but that does not preclude legal challenges in the Supreme Court under the Administrative Decisions (Judicial Review) Act 1989.

Finally, Ms Tucker proposes to insert sunset provisions to require that the amendments do not apply to applications received before the amendments commence. The expiry of that exemption is in six months and we do not believe that it presents any serious difficulties, because most minor amendments are dealt with quickly.

Mr Speaker, as I have indicated, the government supports the principle of the bill, but will be opposing clause 4.

MRS DUNNE (5.44): The opposition will be opposing Ms Tucker's bill today for a myriad of reasons that can be brought down to the simple thing that it brings unnecessary complication into the administration of the land act over an issue which is simply a matter of replacing one single dwelling with another single dwelling.

If there is approval for there to be a single dwelling on a block and the owner chooses to pull it down and replace it with another, it seems preposterous that someone should be able to object to that, so long as it complies with the design and siting guidelines and the plot ratios. If this bill were to succeed, it would create a whole new set of problems for the planning process and the whole application of third party appeals on minor amendments, such as to create a needlessly cumbersome and bowed-down process.

I have had briefings from the department about that. The advice that I received from the department was that this approach was unnecessary and could be achieved by perhaps a tightening of the guidelines and a publication of those guidelines. I think that the legislative approach is unnecessary and cumbersome and creates too much of an impost upon people. For those reasons, the opposition will be opposing the legislation.

MS DUNDAS (5.46): Mr Speaker, I will be supporting Ms Tucker's bill. I also have been contacted about these so-called minor amendments which often seem to involve an entire redesign of a dwelling. I have been informed of minor amendments that have entirely altered roof lines and significantly altered the location of external walls, with resultant detrimental impacts on nearby residents who have been left without any avenue of review.

I believe that the bill introduced by Ms Tucker goes some way towards strengthening the requirements for the approval of minor amendments and the requirements for notifying affected parties. The central issue here is that our planning processes are clear and accountable and that residents are properly informed of the changes in their urban environment. If this legislation is passed, we will be able to feel a little more confident that so-called minor amendments are precisely that.

MR CORNWELL (5.47): I rise to support my colleague Mrs Dunne on this matter. I sit here on Wednesdays listening to members of this Assembly impose more and more controls and more and more limitations on the people of this territory and I do wonder at times whether some of the members here have a different interpretation as to what we, the elected representatives of this city, are really here to do. I see some absurdities.

Perhaps, Mr Speaker, the best absurdity is before me in the amendment that Mr Corbell has rightly referred to as being of some concern, that is, the so-called minor amendment to section 247 (2) (c) by which we would be substituting a section which states "will not cause an increase in detriment to any person or the environment". Let me read that again: "will not cause an increase in detriment to any person or the environment".

Who on earth wrote that? I thought the Stalinists were long gone. I thought that the totalitarians were long gone and the authoritarians were long gone. Will not cause an increase in detriment to any person! Good heavens, how can you possibly put in an amendment of that nature? As Mr Corbell has mentioned, it would be very difficult not to find that an increase in detriment to any person or the environment would occur. If the building of a new single residence on the block of a previously single residence required the removal of a branch of a tree no thicker than my finger, that could be regarded as being to the detriment of the environment, could it not? I am sorry, that is what the minor amendment states.

I appreciate the situation, because I have had numerous representations over the years from people who were unhappy about aspects of redevelopment in their neighbourhood, next door to them, et cetera. I would suggest to you, however, that enforcement of the existing design and siting rules would be a better way of controlling the situation, rather than the jackboot approach that I am seeing in this amendment.

I am aware, as is Mr Corbell and as are most members who have been here for some time, of gross breaches of design and siting arrangements because the design and siting rules were not enforced. I would suggest that that is the responsibility of PALM, the people who are there to make sure that design and siting rules are carried out. It is not the responsibility of this Assembly to impose more and more conditions simply because the people who should be enforcing these rules, PALM officers, are not doing so. I would suggest, Minister, that you seek to ensure that they do carry them out.

I have a question on the notice paper, as of yesterday, which concerns an accreditation section which I have heard either is being disbanded or is going to be broken up. If that is correct, and I hope that it is not, that is certainly not a step in the right direction, because we do need the design and siting rules to be enforced, but we certainly do not need this sort of draconian nonsense not only being put forward in this place, but also being passed, because it seems to me that we are losing sight, or at least some of us are losing sight, as to our role in this Assembly in relation to the ACT, that is, that we are all here for the good governance of this territory, not to impose further and further restrictions on the 320,000 residents who live here.

MS TUCKER (5.52), in reply: I will conclude the debate. I am not sure whether Mr Cornwell quite understands what this bill is actually about. If Mr Cornwell is so concerned about PALM not doing its job, he would support this bill. If Mr Cornwell thinks that PALM is not doing its job, which is a quite significant allegation, he would be aware that what we are doing here is bringing a bit more transparency into how PALM deals with development applications and taking a bit of discretion from PALM in that the bill allows someone who has already expressed an interest in a development because it will impact upon them to have an opportunity to make comment if the so-called minor amendment is approved.

The question of what is minor and what is not minor is, of course, subjective. All this bill is doing is trying to tighten up the rights of neighbours to have a say if a development application that has been approved is going to be changed. Mr Cornwell used colourful language, describing that as Stalinist, et cetera. The point is that this provision would actually protect people in the community. It would allow for transparency in the operations of PALM in terms of development applications.

As Ms Dundas said, lots of people have been communicating to members of this place for some time their concerns about this sort of issue, which was a fairly significant issue in the election campaign that the Liberals lost. I am glad to see Mr Corbell supporting this bill, although I am very disappointed that he is not prepared to support our removal of the word "significant" from paragraph (c), which talks about not causing a significant increase in detriment. I stress again, particularly for Mr Cornwell, that it is about not causing an increase in detriment, not any detriment.

The whole question of what is a minor amendment is what is the problem; that is what is subjective. We were purposely trying to tighten up paragraph (c) because it is quite important to our bill. Whilst Mr Corbell actually says that he still supports this bill in principle, I think that he has undermined it significantly by not being prepared to support the amendment to 247 (2) (c).

Minor amendments may be of minor concern to Mr Cornwell and others in the Liberal Party, but for those people who are living next door to buildings that overshadow their block or reduce their privacy, they are clearly a major issue. I am very disappointed that Mr Corbell will not be supporting fully the amendments that we have produced today. I am not particularly surprised by the Liberal Party's response.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.57): As I have indicated, the government will not be supporting clause 4. Paragraph 247 (2) (c) of the land act currently contains a requirement that there be no significant increase in detriment to any person. Ms Tucker proposes to amend that to provide that there be no increase in detriment to any person.

That provision of the land act was drafted with the intent of making clear the position that, while it can be argued that any amendment to an approval is likely to have some effect, however small, on a person, the amendment may be made if that effect would not be substantial or significant. For example, an amendment may involve only a very small change to the location of a window that would not be seen from an adjoining property. That is an example of a minor amendment that would not have any significant or substantial impact on the neighbours.

It is most important that the paragraph be read in conjunction with the other criteria for deciding to approve an amendment. The approving authority must be satisfied of the nature of the amendment. In other words, the provision recognises that, where any decision is to be made involving threshold criteria, judgment must be exercised by the relevant officer.

In addition to the requirement that there would be no significant increase in detriment to any person, the approving authority must also currently be satisfied that the amendment does not change the effect of any condition that applies to the approval—the conditions of the original approval cannot in any way be undermined by the minor amendment—and, secondly, the amendment does not change the kind of development approved, so the minor amendment cannot be used to change the nature of the development from, say, an extension of an existing single dwelling to, in effect, a dual occupancy under the same roof.

Mr Speaker, in most cases, it is not possible to say with absolute certainty that no person would be affected in any way by a development. In fact, it is almost certain that some person would be affected by any development activity, and that is significantly why the

government believes Ms Tucker's clause 4 should not be supported. The important question to be answered is whether the effect will be detrimental and significant.

The proposed amendment will remove any qualification on the test of the effect that an amendment to an approval would have. It would be sufficient, if Ms Tucker's amendment were to be supported, for a person merely to argue that they would be affected in some negative way, even though the effects would be extremely insignificant. That might amount to establishing only that the person is aware of the change and is generally concerned about it.

The government is proposing that the Planning and Land Authority will have the power to reconsider development decisions. This will allow approvals to be amended on application by the proponent, whether or not those approvals are minor. Of course, appropriate notice would be required and the decisions would still be subject to the relevant range of reviews through the appeals process. It is hoped that such a process, which has proven successful in other systems, will reduce the number of disputed decisions and appeals to the appeal body.

Clause 4 of the bill is opposed because it is important to allow time for related improvements to the system to be developed before a change as significant as the one Ms Tucker is proposing is made. Clause 4 of the bill as it stands would make the existing system effectively unusable. The only option for making minor changes would be to make a new application or appeal to the AAT. That would make the system more complex and expensive.

The concerns that Ms Tucker seeks to address could be met by the issuing of a practice direction to PALM officers requiring them to have regard to all possible impacts on neighbours of proposed minor amendments to development approvals. This direction might also address some other matters of concern to PALM.

Mr Speaker, I think that I have outlined clearly the reasons behind the government's decision to oppose clause 4. We will be supporting the remainder of the bill.

MS TUCKER (6.01): I just want to make the point again that this clause is fundamental to what we are trying to achieve through this bill. It is the very question of what is or is not a minor amendment that has been of concern to people in the community. If you are reducing the number of changes which can be classified as minor, okay, but if something was not classified as minor and you were reducing the number of changes that could be classified as minor, it would have to trigger a new process in the development application, which was exactly the point of this proposal. What were being defined as minor amendments were not minor amendments in terms of the impact they were having on neighbours. If it involves a small window being moved, obviously that cannot be shown to be having an increase in detriment, so I think that that is not a realistic example.

The other section of this bill, which is really the only other part of it, is about bringing about transparency, which is hardly Stalinist, to allow neighbours to know what is going on. I am very disappointed that you have not supported that, because that was the point of the bill.

MS DUNDAS (6.03): The Democrats will be supporting clause 4 because, as Ms Tucker has said, it does clarify a bit further what we mean by minor amendments. Most of the issues that have been brought to my office and my attention have been regarding this query over the definition of what is minor.

Continuation of the debate about what is substantial, what is actual detriment and what is substantial detriment will make the whole situation more complicated. If minor amendments then become less minor, then so be it; we have cleared up the process, we have allowed people the opportunity to put their objections forward, to have them heard and to be informed of what is actually going on. Removal of the word "substantial" from this subjective clause would help members of the ACT community to know what is going on with planning in their neighbourhood.

Question put:

> That clause 4 be agreed to.

The Assembly voted—

Ayes, 2	Noes, 12	
Ms Dundas	Mr Berry	Mr Humphries
Ms Tucker	Mr Corbell	Ms MacDonald
	Mr Cornwell	Mr Pratt
	Mrs Dunne	Mr Smyth
	Ms Gallagher	Mr Stanhope
	Mr Hargreaves	Mr Wood

Question so resolved in the negative.

MR SPEAKER: I understand that Mr Quinlan and Mr Stefaniak are paired.

Clause 4 negatived.

Remainder of bill, by leave, taken as a whole and agreed to.

Bill, as amended, agreed to.

Adjournment

Motion (by **Mr Wood**) proposed:

> That the Assembly do now adjourn.

ACTION buses

MR SMYTH (6.09): Mr Speaker, in question time today it was asserted quite incorrectly that the previous government did not have a policy on bus replacement for ACTION. I wish to refer to a press release that I issued on Thursday, 20 June 2001, which talks about clean, green ACTION.

It talks about ACTION's trialling clean CNG buses to determine the effectiveness of ultra-low floor style buses in full operation. It says that these buses are CNG-powered, low-floored, airconditioned buses, and says that ACTION would buy 10 buses in 2001-02, buses that we do not have now. Why don't we have them? Because the Labor government did not bother to buy them.

The danger for this place is that, when somebody asserts something that is absolutely incorrect, and then actually goes on to contradict himself later on when he goes on to detail what he purports to be a policy that we did not have, I think it is very important that we go on the record and put down the truth of the matter. The truth of the matter is that we did have a policy. It was a policy worth $7.98 million in the 2001-02 budget, which did not go ahead because of the Labor Party's inability to make decisions. It is a policy that would have had these buses on the routes.

The interesting thing is, you could almost read my press release inside Mr Corbell's press release, a "New generation of bus travel comes to Canberra". The last paragraph of my press release says:

> ACTION is currently evaluating two brands of CNG buses, MAN buses and Scania buses.

According to Mr Corbell:

> Two demonstration buses have been on loan from bus manufacturers MAN and Scania.

It is important that the facts are placed fairly and squarely on the table.

The other thing that is disappointing about today's debate is that leave was not given to correct this misinformation. Again, it just goes to show what a secretive and lazy government we have.

Gungahlin Drive extension
ACTION buses

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (6.11): Mr Speaker, in a debate earlier today, in relation to the Gungahlin Drive extension, I indicated that the ASC had postponed a meeting it was to have with the Department of Urban Services in relation to the Fitch report. It was brought to my attention after the debate today that there may be some confusion as to exactly who cancelled what. My office is seeking to clarify the matter. Unfortunately, Mr Thompson, who was one of the participants proposed for that meeting, is out of town and cannot be contacted at this stage.

I want to indicate to the Assembly that my comments may have been incorrect, and I apologise for any omission that I made and any misleading that I may have done. It was quite inadvertent and I am currently seeking to clarify the situation.

Further, in response to some comments made by Mr Smyth, I wish to say that the government is investing a significant amount of money in a bus fleet replacement program. Mr Smyth made reference to what the previous government had set aside as part of its overall free school-bus scheme. Indeed, it is important to note that it did all of it in the context of the free school-bus scheme. There was no serious or deliberate attempt to invest further money in ACTION. All it was was part of a scheme to try to bribe the Canberra community to vote them back into office, after all the disasters that they had inflicted on us over the last three years.

I wonder if Mr Smyth's speech line is a bid to come back as urban services spokesperson, Mr Speaker. He was, of course, Urban Services Minister, but now I think he sees that the opportunity is there to grab back the portfolio that he loves so much, albeit in opposition. Of course, my colleague, Mr Wood, is quite happy for there to be no shadow minister for urban services for quite some time. I doubt we will be given that luxury. However, I think it is worth noting, nevertheless, that the Liberal Party is so much at sixes and sevens at this current time that they do not even have someone with an appropriate shadow ministerial responsibility to respond regarding such important public policy matters.

Town centres—development

MR HARGREAVES (6.14): I have been concerned for some time, as a member for Tuggeranong, about connecting the Commonwealth and ACT governments' long-established town centre policies. Successful development of Belconnen, Woden and Tuggeranong has been fundamentally underpinned by long-standing policies that deliberately create employment in the town centres. Both the Territory Plan and the National Capital Plans have provisions that support the further development of town centres.

I have been very concerned that these long-standing policies have been eroded over the past couple of years by the development of a de facto town centre at the Canberra Airport. That is why I was so amused, last Thursday, to discover that my concerns were, at least in part, shared by no less a body than the Property Council. The *Canberra Times* reported last Thursday, 19 September, that the president of the Property Council, Mr Noel McCann, had made a speech urging government to increase employment opportunities in Civic to enhance its role as the central business district.

That was when I was overcome with mirth. "Hang on," I thought, "is this the same Noel McCann who is actively engaged in his day job of developing the office park at the Canberra Airport, which is sucking people and business away from Civic?" That is the very thing that he complains about in his speech. Let me quote from the article:

> We need to increase employment opportunities in Civic in order to ensure low office vacancy rates there, he said.

Then he actually uttered the following words:

> Proposals by the town centres to attract more office development was like "extending the deck of the Titanic then shuffling the same number of deck chairs around it".

I do not want to be unkind, but you would have to say that Mr McCann might consider whether he has a slight conflict of interest between his Property Council role and his airport job. Perhaps the Property Council might think about that as well. Today, Ms Annabelle Pegrum, the chief executive of the National Capital Authority, is reported as having made a speech yesterday to the Property Council, also calling for a higher level of development in Civic.

Ms Pegrum, of course, is under a legal obligation to uphold the National Capital Plan, which provides for the maintenance of the town centres and the decentralisation of Commonwealth employment. She has no right to publicly undermine long-standing planning policies and to damage the interests of those investors in Tuggeranong. Of course, Ms Pegrum has been intimately involved in approving the development of the new town centre at the airport.

It is a very strange thing in this town that a lot of people in business complain to me about the airport's office park expansion, but you never hear them saying anything in public. There seems to be a bit of fear about offending our local version of Bob Jelly. Of course, we all know what it is like to be on the end of the usual hysterical blast from the other airport executives about how their business is vital to this town. I am here to look after Tuggeranong and I think the airport has got far too big for its boots.

What is actually going on at the airport? The first thing to look at is the privatisation of the airport by the Commonwealth a few years ago. I assume the buyers are eternally grateful to the then Finance Minister, John Fahey, because they got a great deal. They did not buy the airport. They bought a land bank that they can happily play with for years.

We have been complete mugs in just sitting back and watching the development of the town centre at the airport. The conditions under which the airport was purchased from the Commonwealth clearly contained no impediments to land use so, while we thought they were buying an airport, they knew they were buying a massive development opportunity. The conditions allow commercial offices, retail space, light industrial space, a hotel and a childcare centre. They may even be able to build a casino, and they would be paying no levy for the change of land use.

Members will recall the Labor Party's objection to the decision of the previous government to locate CTEC at the airport. My colleague Mr Corbell spoke strongly against that at the time. It was a very bizarre decision by the previous government, which still reflects badly on all those involved. Current projections for the airport are that we will have by the end of next year some 70,000 square metres of commercial space. To put it starkly, that is more than Tuggeranong has now. It simply cannot be allowed. It is time to blow the whistle.

The Y plan is the basis of our infrastructure investments. The town centres provide economic activity that underpins these public investments. A town centre at the airport undermines the very fundamentals of our planning system. We cannot afford to allow this anomaly to develop further.

The Commonwealth is responsible for allowing the creation of this state of affairs. The previous ACT government did nothing to stop it. This Assembly should consider what action we can take to preserve the fundamentals of our planning system. I have been seeking solutions to the lack of employment and commercial viability in Tuggeranong for five years now, and I want to see a second economic food chain as an alternative to dependence on the public sector.

Having the airport development out there takes away the opportunities from Tuggeranong and it takes them away from Gungahlin. Allowing the use of the land bank at the airport for commercial development is no way to encourage development out at those fledgling town centres and Belconnen.

Minister for Planning

MRS DUNNE (6.19): I am glad that the Minister for Planning, Mr Corbell, is starting to use the forms and procedures of this house with a little more punctiliousness, and that he is not so keen to play fast and loose with realities and actualities. I am glad to see that he came in here today at least to throw some doubt over his assertion that it was the AIS that had pulled out of the meeting last Monday, because I was coming into the adjournment debate to ask him to clarify that.

The intelligence that I have received was that it was not in fact the AIS that withdrew, but rather Urban Services staff, who cried off on the basis that—I have been told—they had an urgent meeting with the minister. I hope that the minister can clarify that.

In the debate about Gungahlin Drive, the minister also said a couple of other things that he has not yet clarified. One was the assertion he made in question time yesterday that there was an agreement for a joint release of this report. Although I came back to him with the transcript of what he said in *Hansard*, he as yet has not apologised for that mistake. I hope he will do so soon.

He also said that he understood that Senator Kemp had made a comment on the report. I have made some inquiries, and I think, in fairness, he had been approached by a journalist who told him this. I have not actually managed to speak to Senator Kemp yet, and I will follow this up with Senator Kemp. However, the only comment that I can find is one attributed to Senator Kemp on the ABC news. The actual words used by Senator Kemp do not mention the report. The words attributed to Senator Kemp are:

> It is not only a matter of finding whether roads go through or not, but whether the athletes will come to see if the athletes will come. If the athletes feel the environment is the correct environment, if they are worried by noise, if they are worried by other pollution, they simply will not come.

There is nothing in that which says that Senator Kemp is referring to the Fitch report, as was asserted in this place before. If the wily journalists of the ABC actually had the words of Senator Kemp commenting directly on the contents of the Fitch report, I am sure they would have reported it. I hope that, between the minister and myself, we can actually work out what Senator Kemp did say.

I am sure he would be quite willing to tell us if we ask him and, in the mean time, we need to be a bit careful about the forms of the house. If we do make a mistake we should be prepared to come in here, lickety-split, and set it right.

Question resolved in the affirmative.

The Assembly adjourned at 6.22 pm.

Schedules of amendments

Schedule 1

Clause 4

Proposed new section 248C (3), examples and note

Page 2 line 11—

omit proposed new section 248C (3), its examples and note, substitute

(3) The registrar of the administrative appeals tribunal must refund the determined fee paid for an application for review of a decision by the tribunal if the tribunal certifies that the proceeding ended in the applicant's favour.

Schedule 2

Clause 4

Proposed new section 248C (3)

omit proposed new section 248C (3), substitute

(3) If the administrative appeals tribunal is satisfied that a proceeding ends in a way that is favourable to an applicant for a review by the tribunal of a decision, it may order another party to the proceeding to pay the amount of the application fee to the applicant.

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