DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

19 NOVEMBER

2003

Wednesday, 19 November 2003

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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.

Tabling of documents

MR SPEAKER: Members will recall that in the adjournment debate on Thursday, 23 October 2003 Mr Stefaniak sought and was granted leave to table certain documents in relation to the issue of trees on the corner of Coulter Drive and Nettlefold Street in Belconnen. In seeking leave Mr Stefaniak assured members that the document "is not a particularly contentious document, apart from it having a go at PALM for giving wrong information" and said, "They are not slagging off at any individual; they are just making a series of points in relation to stats."

I have examined the documents tabled and consider that they make quite serious claims against public servants and the minister and contain words which, if read out in the chamber, I may require to be withdrawn.

Members may recall that in December 2002 I was required to rule on remarks made about the document tabled by leave by Mr Humphries which made allegations and claims concerning Mrs Cross. At that time I advised members that, if they wished to grant leave of the Assembly for papers to be tabled, they should attempt to make themselves aware of the contents of the documents in question before leave is given. I reiterate that ruling today.

Petitions

The following petitions were lodged for presentation.

Sentencing laws

by **Mr Stefaniak**, *from 84 residents:*

> To the Speaker and the Members of the Legislative Assembly of the Australian Capital Territory.
>
> The petition of certain members of the Australian Capital Territory draws to the attention of the Assembly community concerns about the weak and inadequate sentences handed down by our Courts for serious crimes committed in the ACT (such as robbery, supplying drugs and crimes of violence).
>
> Your petitioners therefore request the Assembly to take all necessary steps to bring ACT laws in line with Sentencing Laws and practices in New South Wales and call on our Courts to impose stronger sentencing on persons convicted of serious offences in the ACT.

Policing

by **Mr Stefaniak**, *from 161 residents:*

> TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY.
>
> The petition of certain residents of the AUSTRALIAN CAPITAL TERRITORY draws to the attention of the ASSEMBLY that there is an URGENT NEED to retain or transfer back, experienced community police officers to serve within the Australian Capital Territory. Also the current policing levels are under strength in relation to the National average by approximately 120 POLICE OFFICERS.
>
> Your petitioners therefore request the Assembly to call on the MINISTER FOR POLICE TO IMPLEMENT URGENT PROGRAMS to increase Police numbers in the ACT and retain or transfer back, Officers who have Community Policing experience, to serve within the Australian Capital Territory.

Platypus (Ngunnawal) shopping centre

by **Mr Cornwell**, *from 264 residents:*

> TO THE SPEAKERS AND THE MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY.
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the MOTOR VEHICLE PARKING ARRANGEMENTS at the Platypus (Ngunnawal) Shopping Centre is in need of an urgent upgrade. This is due to the lack of adequate parking for vehicles that park at this Centre; thereby affecting both Customers and Merchants. There is also a need for the installation of a MAIL (post) BOX at this Shopping Centre.
>
> Your petitioners therefore request the Assembly to call on the Minister for Urban Services, to take all the necessary steps to have motor vehicle parking arrangements expanded. Also requests the Minister to make representations to Australian Post to have a mail (post) box installed at the Platypus (Ngunnawal) Shopping Centre.

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

Casual workers—entitlements

MR HARGREAVES (10.34): I move:

> That the Assembly:
>
> (1) notes that according to recent research, at least 30% of the Australian work force will be casual workers by 2010 and given the high numbers and proportion of persons employed full and part-time in the public sector in the ACT, that will mean disproportionately high numbers of persons in the private sector employed as casuals in the ACT;

(2) expresses concern that a large and increasing proportion and number of the private sector work force in the ACT may be deprived of not only their basic employment entitlements of award and enterprise minimum remuneration, leave entitlements and superannuation but may also fall on the blindside of statutory protection such as occupational health and safety (particularly in relation to shift work), job training and career development;

(3) acknowledges that there may be some benefits of working casual arrangements for some employees; and

(4) calls on the ACT Government to investigate options for raising the awareness of award and agreement entitlements for casual workers amongst employers and employees.

I would like to bring to the attention of the Assembly this morning the issue of increasing casualisation in the ACT work force. The structure of the Australian labour market has changed significantly in the past 10 to 15 years. Since 1990 the proportion of the work force employed in casual positions has increased from around 20 per cent to nearly 30 per cent today.

This trend is also evident in the ACT although ameliorated somewhat by our large public sector. Nevertheless, recent Australian Bureau of Statistics surveys have shown that more than half of the ACT private sector employees are casuals, and this figure is growing. This is in line with the Australian experience where around 70 per cent of total employment growth since 1990 has been in low-paid casual work. Eighty-seven per cent of all those new jobs paid less than $26,000 per annum and 50 per cent of them paid less than $16,000 per annum.

Although women still have a higher rate of casual participation in the labour force, at 32 per cent, than men, at 21 per cent, since 1990 the proportion of men in the casual category has risen faster, from 12 per cent compared to 28 per cent for women. In simple terms, the increase in full-time casual employment since 1990 is mainly accounted for by the increase in male casual employment.

The extent of long-term casual employment has been captured in survey data by the Australian Bureau of Statistics. Recent ABS survey data shows that over two-thirds of self-identified casuals work regular hours; 40 per cent have a guaranteed minimum number of hours; over half have been in their jobs for more than one year; around 15 per cent have been in their job for five years or more; almost three-quarters expect to be in the same job in 12 months time; and 40 per cent report that their earnings have not varied.

The incidence of longer durations of casual employment is evident across a broad range of industries, including accommodation, retail trade, cafe and restaurants, wholesale trade, agriculture, forestry and fishing, manufacturing and education. Casualisation of the work force has produced the following effects: reduced employment levels and job security; a reduction in the quality of service provision; lower wage levels and working conditions; reduced opportunity for careers; lower employment status; and greatly reduced capacity for employees to borrow money.

Casual work means inadequate entitlements and an inability to save for retirement income. Casual workers can also have difficulty obtaining a loan to buy a car or a house. Fewer than three per cent of casual employees have access to any form of paid leave. Casual employees have a much higher retrenchment rate, often 50 per cent higher than permanent employees. This is a significant figure. It highlights the high level of uncertainty that long-term casual workers face.

Another point I would like to raise today is the misconception that casual workers move easily between jobs and do not suffer any significant loss when employment is terminated. This is manifestly not the case. Long-term casuals, that ever-increasing group of workers, do suffer on redundancy, whether it is the trauma associated with the actual termination of employment, the loss of earnings in the subsequent period of unemployment after termination, or the loss of non-transferable credits, such as sick pay.

However you look at it, there is a significant problem developing and a challenge for our community to face. That is why I have brought this motion to the Assembly this morning. It should be of great concern to the legislature that a large and increasing proportion of private sector workers in the ACT are deprived of their basic employment entitlements such as award minimum remuneration, leave entitlements, and superannuation, and fall on the blind side of statutory protection such as occupational health and safety—particularly in relation to shift work—job training and career development.

There are indications that a number of employers are misusing the ability to hire labour on a casual basis. By treating the casual work force as effectively a permanent and full-time force, employers are avoiding the costs of conditions laid down in awards and certified agreements for permanent employees; that is, casuals have no access to paid sick leave, minimum weekly hours or other basic entitlements. The standard casual loading of 15 per cent is, on these indications, a cheap price for employers to pay to avoid these other on-costs.

It is young people who bear the brunt of this undermining of conditions. A new report into the casualisation of young people's jobs in the Australian work force has found the growth of a second-class work force. The report *Don't bother coming in today,* compiled by the Australian Young Christian Workers, found that casual workers often have substandard conditions. The report found that 55 per cent did not know their correct rate of pay, 61 per cent had worked while they were sick, 41 per cent wanted more hours, 26 per cent wanted permanent work and 33 per cent were working unpaid overtime. The report went on to conclude:

> The jobs that are casualised usually have lower rates of pay, worse conditions, are insecure, have few guaranteed employment benefits, and provide minimal opportunities for advancement. Even where casual workers have legal entitlements, many employers ignore them, and the workers are not in a position to insist on those rights …

The Australian Bureau of Statistics backs up the report's claims that youth casualisation is a significant phenomenon in Australia. The latest figures show that two-thirds of 15 to 19-year-olds are now employed on a casual basis. While casual work is seen as the

option desirable for many people seeking to balance work and personal commitments, the Young Christian Workers report demonstrates that many young casual workers would prefer to work on a permanent part-time basis if full-time work cannot be found.

It is important to note that some employees benefit from short-term casual working arrangements—short-term holiday work, for example. My concern is about the substitution of full-time and permanent part-time workers with long-term casuals. I believe that moves to improve the conditions of long-term casuals need not impinge on genuine casual employment opportunities.

The trend to lower paid and less secure jobs is fundamentally altering Australian society and is an issue that needs to receive community attention. The challenge for the government is to find new ways to raise awareness of award and certified agreement entitlements amongst employers and employees. I believe that secure and predictable employment for workers, with decent entitlements, can be achieved without compromising the reasonable requirements of employers for flexibility to deal with genuine operational fluctuations. I welcome the constructive and energetic approach that Minister Gallagher has brought to the Industrial Relations portfolio and I am greatly encouraged that the issues raised today will be addressed by the minister in the months and years ahead. I commend the motion to the Assembly.

MS TUCKER (10.44): The Greens are happy to support this motion. There have been significant changes to the Australian workplace over the past 25 years. Michael Pusey, in his book *The experience of middle Australia: the dark side of economic reform* looked at the impact of that economic reform which has transformed Australia from one of the world's most protected economies to one of its most open, including the privatisation of what were public enterprises and the shift to decentralised wage bargaining.

The information in his book is based on a detailed quantitative analysis of the economy over that time and qualitative discussions with 400 people above the bottom 20 per cent and below the top 10 per cent of income earners in various locations around Australia. He concluded that the real incomes of the bottom 70 per cent of the population are lower today than in 1976 and that Australia now has a substantial class of working poor at one end of middle Australia, balanced by an even larger class of time poor at the other.

The other notable evidence that comes out of that book is that most of the people surveyed believe they are worse off due to what is called economic reform or that society itself has been disrupted and damaged by it. It is worth noting that the Commonwealth department that has had carriage of those reforms particularly linked to deregulating the workplace, the Department of Employment and Workplace Relations, is itself the most highly unionised and organised department in the service. It is clear to those people at least that there are real human costs to a regime that favours flexibility and competitiveness over an assured standard of living.

I am pleased to support this motion because it calls on the government to ensure that workers in the ACT, at the very least, are aware of their entitlements and that they do not miss out on the statutory protections of OH&S standards. In dealing with the casualised workplace and the growing range of employment and contracting arrangements that are a feature of it, the role of OH&S inspectors and good OH&S practices are going to be particularly important.

One of the features of the new Australian work environment is its transitory nature. It is not just casual employees who can expect to move employment with some frequency. Young people entering the work force can now expect to change career, not just employment, five or six times. And so the issue of training and career development is becoming more important in every employment situation.

There are real issues with the increased casualisation of the workplace. Working conditions are in general poorer, long service leave and holiday leave tends to be paid in allowances, if at all, and casual employees are rarely secure enough in their employment to take much time off in lieu of a paid holiday in any event. Paid annual leave and long service leave serve a really important function in keeping the balance between work and life. While a casual employment contract can suit some professionals with highly marketable skills, and others such as some tertiary students who are specifically looking for short-term employment, it is a disadvantage for most of us. It is in the more casualised sectors of employment that people are trapped in working poverty. Security of employment ranks up there near to safe and secure housing as a key factor in ensuring people can escape from the traps of poverty and social exclusion.

Sidney Myer once said that the real purpose of business is to create employment. In addition to creating thousands of jobs in retail back before the war, he also provided his employees with health care and with holidays in the country or at the coast. We have come a very long way from such a socially responsible view of business and employment to a focus on competition with other business and cutting costs and employee entitlements.

Consequently, award and agreement entitlements are particularly important to casual employees, and so it makes sense to put some effort into ensuring employers and employees are aware of them. Unfortunately, in most cases your conditions are only as good as the award or the agreement has delivered; those industries that have a high degree of casualisation also tend to have a lower level of union membership; and those industries and workplaces that have a lower level of union membership end up with worse conditions. So, while it does indeed make sense for the government to better inform people of their entitlements, it would also make sense as much as possible to ensure that those entitlements themselves are satisfactory.

While the ACT government has limited influence in these areas, those programs that it directly funds need to be funded at a level that the employees, whether casual or not, do have access to training, to long service leave, to parental leave and so on.

The ACT government can actually show leadership across Australia if they do this and accept—and, through practice, show that they accept—that the balance between work and life is very critical in our society. The emphasis has been for too long on the economic bottom line. The social consequences of that are very evident—and people in the community know that. It is not something that is not recognised, but still governments are not responding to that understanding and to arguably increasing costs to the public purse that result from not acknowledging the reality of the human experience of the people in the community. It is that human experience which is what we are elected to take notice of. And, unfortunately, we are not seeing governments do that. I commend the motion.

MS DUNDAS (10.50): Employment is an issue that is consistently raised with me by the community. Security of employment and the struggle to achieve a work-life balance are two key problems. Only last month, my Senate colleague Senator Cherry called for a national inquiry to address the negative impact of the increase in casual and temporary employment. He noted that 60 per cent of jobs created in Australia in the last year were casual or temporary, bringing the total number of workers in casual employment to just over a quarter. Based on current trends, and unless something is done to reverse the decline in permanent positions, we will eventually see the majority of all workers in casual employment.

Although the category of casual employment was created to allow employers to deal with peaks and troughs in workload, the current average length of employment for casuals is four years. It is clear that many employers are engaging workers as casuals when they should be offering permanency as the employment type. High rates of casual employment are not the norm in the developed world. Even the United States has a casual employment rate just one-sixth of that in Australia. A work force dominated by casuals does not guarantee greater productivity. It just causes greater stress among employees, who have no certainty of work from one week to the next, even from one hour to the next. They have no access to sick pay or to annual leave to spend time with friends and family, and they seldom get access to paid training. The loading of 10 to 15 per cent that they get to compensate for this hardship goes nowhere near to making casual employment as attractive as permanent part-time or permanent full-time employment.

The ACTU *Future of work* report released in June this year showed that 68 per cent of casual workers want more reliable and predictable work hours. Although some people, such as students, can find casual employment that suits their needs, many other workers, particularly those with families, find the uncertainty of casual work very difficult both financially and in terms of planning to meet family commitments.

Mr Hargreaves adverted to another problem with insecure employment. If employees feel that their employment could be terminated at any time, they feel less confident about raising workplace safety risks. This is an unacceptable risk borne by society as a whole, and a strong reason to take action to reverse the trend.

The Minister for Industrial Relations has introduced a number of bills to regulate working conditions in the territory. Of course, the ACT has only residual responsibility for industrial relations matters, where there is no federal award or certified agreement covering a workplace. In theory at least, it is a small proportion of workers who are outside the federal system. However, in practice, in workplaces with no active unionism, if both employers and employees are unaware of the terms of an award or unaware that an award even applies, employees' rights can and are often breached. Employers are generally more aware of legislation than they are of AIRC instruments. This means that there is good reason for the ACT to continue to pass laws that establish minimum working conditions for employees here in the ACT.

I hope that this motion today brought forward by Mr Hargreaves foreshadows government legislation on the subject of casual employment, though the actual wording

of his motion, I think, is rather wishy-washy, suggesting only an education campaign to inform employers and employees of the rights of casuals. Perhaps it would be more accurate to say that it would be informing employers that casuals currently have precious few rights. We could be going further and creating laws that stop employers overusing the casual form of employment where it is clear that they could and should be employing a permanent work force.

I will finally comment on the fact that the motion seems to demonise the private sector and to imply that things are going very well for workers in the public sector. In fact, employees in the public sector have also witnessed a shift to insecure employment. But, rather than to casual employment, they have witnessed a shift to temporary employment and the engagement of consultants to do the work that was formerly done by permanent employees.

Although temporary employment provides a slightly greater level of security than casual employment, it still falls well short of the security of permanent employment. Many workers in the public service endure consecutive temporary contracts of as little as three months duration, and this is justified by claims that government funding for a particular project may dry up when in fact government departments previously managed to respond to changing government priorities by reallocating staff, rather than through hiring and firing.

The ACT government should get its own house in order in this regard to make sure that we are no longer putting workers under the stress of temporary or casual employment. I thank Mr Hargreaves for raising this important issue. The ACT Democrats are happy to support the motion and hope that there is legislation in the pipeline to address the misuse of casual and temporary employment in the ACT.

MRS BURKE (10.55): I have just a few points that I would like to bring before the house. These have probably been well said by other people but I just want to reaffirm them. It must be remembered that most people undertaking casual work do so as a career or lifestyle choice. This has been argued against in this house, but it is a point open for debate. If we look at the word "casual", it is all about definition and interpretation of the word, but I will go on to that in a moment.

Many more people are seeking to balance work and private life, as Mr Hargreaves well said, and job sharing is not uncommon. Indeed, I have talked to two young women this week in the Chief Minister's Department who do exactly that. Mr Hargreaves talks of a disproportionately high number of persons in the private sector employed as casuals. I think this statement rather shows a lack of understanding of, firstly, modern day society and its desire to effect a better balance to their lives and, secondly, the needs of business—in particular small to medium enterprises and how they operate.

It is often simply impossible or impractical for business—and indeed the public sector, as I have already indicated by way of my example—to always have full-time work for every person; and not everyone wants that either. Unfortunately, we do seem to have a government totally hung up on the fact that every person working is not employed full time.

I put it to Mr Hargreaves that maybe, just maybe, people do not want full-time employment, as in the specific case of students, carers, single mothers, fathers and the like. What gives Mr Hargreaves the grounds to say that people working on a casual basis may be deprived of their basic entitlements of award and enterprise minimum remuneration, leave entitlements and superannuation? If Mr Hargreaves knows of such personal examples, he should be advising organisations such as the Chamber of Commerce and Industry, which has jurisdiction over some 100 awards in the ACT.

Mr Hargreaves should also note that some employees currently negotiating Australian workplace agreements are in fact asking for an all-encompassing arrangement. And why? Maybe it gives employees more flexibility to do what they want to do with their money. A fair call I would say, but of course maybe Mr Hargreaves does not think we live in a democracy.

People have every right to make choices in life. They are also protected under the no disadvantage test—and I am sure that Ms Gallagher will know all about this one. The Office of the Employment Advocate ensures this process under the no disadvantage rule. The Industrial Relations Commission is also there as a guiding hand to people if they feel they are being hard done by. There are many avenues if people do not feel that they are being appropriately and correctly rewarded. Casual workers are covered by statutory protection. If they are not being treated this way, business organisations would like to know about it.

I am also a little mystified by Mr Hargreaves making these comments, given that under most, if not all, awards casual workers are compensated for the entitlements mentioned, in varying percentages from 20 per cent to 50 per cent. I think again that Mr Hargreaves' suggestion that casual workers may also fall on the blind side of statutory protection such as OH&S, job training and career development is quite a scaremongering comment.

In fact, it is my experience in my many years of employing people that casual workers need to be as well trained as, if not more than, full-time workers. They are often people who are able to demonstrate a greater flexibility and dexterity when fitting into a working environment. Indeed, many casual workers hold down more than one casual position in more than one organisation or industry—again as a matter of choice. They prefer to work for several employers.

Mr Hargreaves seems to present a strange contradiction to his previous points when he acknowledges that for some employees there may be some benefits of working casually. Indeed, a good example given to me by a local business organisation is the video industry, a good example of an industry offering casual employment to students and to mothers and fathers balancing home duties and work. Again, let us not forget that many people want a career-lifestyle balance and that is why many choose casual employment. I think Mr Hargreaves is really talking about a minority when he says that people are not being cared for. If that is the case, we need to raise it with appropriate bodies and authorities.

It is interesting to note paragraph (4) of Mr Hargreaves' motion. In fact, most, if not all, business organisations in this town make it their business to educate employers of their

obligations and would indeed welcome cross-industry and cross-private sector involvement. They would welcome government funding for such programs to have all parties involved. How about that? Maybe it is inaction by this government that has resulted in the problem that we are faced with now. Mr Hargreaves is quite right; he mentioned that people should be trained and educated. I could not agree more. Business organisations would welcome further opportunities to educate school leavers about mutual responsibility as well as mutual obligation.

Using industry and business organisations in this way would be a positive step to ensuring that everyone is aware of award and agreement entitlements for casual workers. This approach would be both a credible and a responsible one. We cannot have casual workers being filled with fear that the wrong thing will happen to them if they choose to work as a casual. I therefore suggest that Mr Hargreaves and his government air with business organisations any concerns they may have. I commend Mr Hargreaves for bringing the motion out into the open. It is an important matter, as no doubt some people are slipping through the net, but I suggest that Mr Hargreaves looks within his own government. A holistic and creative approach is what is needed to provide jobs of all types, not just casual. Create the environment—that is what governments are for—for permanent, full-time, part-time and casual employment.

MS MacDONALD (11.02): I would like to also thank Mr Hargreaves for bringing forward this motion and I commend it to the Assembly. It is interesting that I am following on from Mrs Burke's speech, because I totally disagree with virtually everything she said in it; but I think Mr Hargreaves will probably address it when he speaks to close the debate.

I would like to start by referring to a speech—and Mrs Burke may do well to pay attention to this quote—from the Hon. Tony Burke, who is a member of the New South Wales Legislative Council, a very good friend of mine and previously an organiser with the Shop Distributive and Allied Employees Association, which has a very large amount of members who are employed as casuals. So Tony has very good experience in dealing with casual workers—as I would say I do, having worked for the Australian Services Union for five years, which covered casual workers, Mrs Burke. Anyway, Tony said:

> My understanding of some of the issues affecting casuals changed radically at a midnight union meeting in a Franklins store for the nightfillers who fill supermarket shelves while most of us sleep. After the meeting, one of the members started telling me where I had had a coffee that afternoon and at which club I had attended a Labor Party meeting the night before. She knew because she had served me the coffee and seen me while she was working as a cleaner at the club. I realised that many casuals do not have to deal only with underemployment; some have a different set of problems that have largely passed under the radar in the public debate.
>
> I refer to the problems faced by people with multiple jobs. This worker told me she would usually work overtime hours but, because they were across multiple jobs, she never received overtime rates. Her total income reached the superannuation threshold, but she fell below the threshold in two of her jobs. The health and safety principle of a 10-hour break between shifts had become meaningless. Any roster

> change not only caused havoc for family responsibilities but also jeopardised the other jobs. When annual leave required simultaneous approval from three employers, it was easy to see why she never enjoyed a real holiday.
>
> Whether it be issues as specific as this or just the general understanding of how meaningless employment conditions become unless they are enforced, trade unionists bring an essential perspective to this place.

Tony goes on to talk about trade unionism, which is not relevant to this particular debate; but of course it will be debated at another time. I also would refer to my own experiences, but I would say that what Tony has said there is powerful. It also informs the debate in terms of how difficult it is to actually balance a multitude of jobs.

When I was working for the Australian Services Union, I worked in a number of places and represented members in a number of places that had casual workers. Two of the biggest places I represented were ACTTAB and Auscript, and I learnt a lot from the mainly female work force in those places about how they were not treated on an equal footing.

Mrs Burke has talked about casualisation and said that people out there want flexibility between working hours and family responsibilities. That is true; that is definitely true. But casual employees do not get to choose their hours. They do not get to choose when they do the work. The hours are always at the employer's discretion.

Mrs Burke: Of course.

MS MacDONALD: Mrs Burke says, "Well, of course; that is the way it should be."

Mrs Burke: No, I did not say that.

MS MacDONALD: Well, Mrs Burke, you cannot have it both ways. You cannot say that it is flexible for the employee and that that is what they want—the balance between work and family—when it is actually not them getting to choose the flexibility.

Mrs Burke: You're out of touch.

MS MacDONALD: No, I am not out of touch on this issue, Mrs Burke.

Mr Stanhope: You just have a slight conflict of interest as an exploitative employer, I think, Mrs Burke.

Mrs Burke: I raise a point of order, Mr Speaker. In accord with standing order 55 relating to personal imputation, I ask the Chief Minister to withdraw that.

MR SPEAKER: Withdraw that, Mr Stanhope.

Mr Stanhope: I withdraw.

MR SPEAKER: Ms MacDonald, direct your comments through the chair.

MS MacDONALD: Thank you, Mr Speaker, for reminding me that I do need to direct my comments through you.

Mr Stanhope: How's the business going, Mrs Burke?

Mrs Dunne: I raise a point of order, Mr Speaker. You have already asked the Chief Minister to withdraw a personal imputation, but the banter is still going on across the chamber. I know you cannot ask the Chief Minister to withdraw the smirk. He might think he is smart, but this is entirely out of order.

MR SPEAKER: There is no point of order.

MS MacDONALD: Thank you, Mr Speaker. I think the comment has been levelled that I am out of touch. Well, I certainly do not believe that I am out of touch from the perspective of the employees and those people who are actually affected by the casualisation, the increasing casualisation.

Mr Hargreaves has already talked about the increasing difficulty people who are in casual employment have of getting a loan. That is a common problem. We have talked about the numbers of people trying to get permanent jobs and the increase in casualisation. We have a major problem facing us in terms of people wanting to make a life for themselves and their families.

My brother experienced this. He is a geologist and he could not get a job when the geology market dropped out. He had a young family at the time and he and his wife were looking to purchase a house. He could not get a loan because at the time he was stacking shelves, Mrs Burke—that was the only work that he could get—and his wife was working two casual jobs. So they could not get a loan.

I talked about how I used to represent the employees at ACTTAB and Auscript. The ACTTAB employees did have protections, and I would say that that was because of the strength of the union representation there. I am sure that you would agree with that statement, Mr Speaker; they do have very strong union representation there. The union fought long and hard to ensure protection for the women working in telephone betting; there were a couple of men working in telephone betting but, once again, it was predominantly female.

But there was always the ongoing issue of shifts. There were a number of women there and they liked the work but a lot of them would have liked to have had more permanent shifts. They had to give up their Saturdays and, when I was involved there, there was a continuous push from management—I do not know if it is the case any more and I would not like to speculate—to move more of the hours to Sundays. So people were being asked to give up their weekends and time with their family. So you cannot say that people choose to do casual work so that they can spend more time with their family, because they cannot; they are at work. Then there is the time spent getting to and from work.

I also had the great privilege when I was working for the Australian Services Union of representing a number of employees at Auscript court reporting services. At that time the federal Liberal government decided to sell off Auscript, which of course I believe was a great shame, because the services provided by the Auscript employees were second to none in terms of court reporting. I am not sure whether they are involved with the *Hansard* transcription these days here, but their work was exemplary at the time.

As a result of the sale of Auscript, all of the people who had been working for Auscript who were permanents were entitled to redundancy payments. But the Liberal government at the time said that it did not apply to the court reporting officers—and the reason was that they were casual. These casual workers had to guarantee to their employer that they would set aside three days per week in which they would be employed. They also had to inform their casual employer, Auscript, if they were going to take up another job. When they signed a contract with Auscript, Auscript would say to them, "If you are going to work for us, we have the right of refusal for you to take up another job. We can cut back the amount of shifts that you get doing the transcription work, doing the typing, doing the recording in the courts; but you can't necessarily take up another job unless we say you can." (*Extension of time granted.*)

I had a delegate there who had actually worked for Auscript for 30 years, and she was still classified as a casual. Auscript said to her, "Never mind, Liz. Never mind about the fact that you've worked for this organisation for 30 years. Never mind about the fact that you've put your blood, sweat and tears into this organisation and typed your hands off day in, day out, that we have asked you to. We're not going to give you a redundancy payment." Well, it was my great privilege to be involved in the fight to make sure that changes happened, through the Industrial Relations Commission at that time.

So the law was changed to recognise that there was a difference between those people who were doing the odd hours in a place and did not have guarantee of employment on the next day, and those people who had continuous employment, who actually had a roster made up for them, which was the case for the Auscript employees.

I also would like to mention the temporary and casual agencies. I have to say that I saw some appalling conditions, in what is supposed to be a Western democracy, with people being basically treated like school children, and worse than school children. I remember that at one place I represented people were told that they had to take a disc and ask for permission to go to the toilet. And only one person—out of approximately 50 employees—was allowed to go to the toilet at any one time. But people could not complain about this. The reason they could not complain? It was because they had no guarantee that they would get a shift the next time around when there was a shift going. It did not matter that they had to put food on the table for their family and pay the rent or the mortgage.

Those things just go to show that the employees in a casual relationship are not treated on an equal basis; they are not on an equal footing with the employer in this case. They are the ones who are required to run and jump when they are told to. If they need the employment, there is no guarantee for them. Mention has been made of the fact that there is compensation for that casual basis. Well, I would put it to you, Mr Speaker, that the compensation in the form of a loading is in fact not much compensation at all.

The final thing that I want to talk about relates to another issue that I dealt with: the collapse of Ansett. I have spoken in this place before about Ansett. I knew a lot of the people in this town who were personally affected by the collapse of Ansett, because I had been the union organiser for five years in this town and the union covered the majority of the check-in staff at the airport.

A number of those people have been re-employed in the airline industry. However, they have been re-employed on a casual basis. Those airline workers worked hard—there are no two ways about that—but they were compensated for the efforts that they put in. I would say that these days that does not necessarily apply any more for those people who have been re-employed in the airline industry, because they have been re-employed as casuals. They have a lack of certainty as to what happens with their future.

I commend the motion that Mr Hargreaves has brought forward. I thank him for bringing it to the attention of the Assembly and I urge the Assembly to support the motion.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (11.17): Casualisation of the work force over the past two decades has significantly changed the traditional pattern of employment for an increasing number of workers in our community. Casual employment in Australia has increased from 16 per cent in 1984 to 27 per cent in 2002 and research indicates that, on current trends, by 2010 at least one in three Australians will be employed on a casual basis. In the ACT, as in the rest of Australia, higher proportions of casual employment exist in the private sector than in the public sector.

In a survey conducted by the ABS in 2001, over 50 per cent of ACT private sector employees identified as casuals, while just over 10 per cent of pubic sector employees identified as casual. A large number of these workers are women, many with the primary caring responsibilities in the family. But casual employment for men is also rapidly expanding, more than doubling as a proportion from 12 per cent in 1988 to 28 per cent in 2001. In fact, the new term "permanent casual" is now used to describe the way many workers are engaged. A 1995 survey found that the average tenure of a casual worker was three years.

The ABS 2001 statistics suggested that over 50 per cent of casuals in the ACT are employed for more than a year. Many people in the community are concerned about where some of the trends in the contemporary workplace might be taking us. The most important issues for workers—and this is no surprise to anyone who has been following workplace or work force issues in recent times—are: (1) job security; (2) how to balance work and family; (3) work intensity, including the pressures of balancing more than one job; and (4) low pay and limited employee entitlements. These are all issues that disproportionately affect casual workers over more permanent types of employment.

Casuals are not just young people in the services sector. They are 25 to 45-year-olds in the prime of their working life, increasingly in core sectors of the economy. Many casuals have been casual for a number of years—not the traditional, informal, irregular casual employment of the past.

Of significant concern is the lack of industrial protection for casual workers, and this is largely attributed to the federal workplace relations law. Casual employees have limited protection from unfair dismissal and do not have access to the same conditions of employment as permanent employees. While some of this is reflected in pay loading, it is arguable whether casual employees are being appropriately compensated for the lack of entitlements available to full-time workers. There is a place for genuine casual employment, particularly for those who prefer the higher hourly wages provided through casual loadings to the entitlements that accrue to permanent workers. But there is also a place for casual workers to have genuine choice, a more secure alternative, particularly when they are in reality permanent workers by another name.

The ACT is constitutionally limited in its ability to legislate to protect the working conditions of casual employees, as federal awards and agreements prevail over ACT laws due to the self-government act.

The Australian Industrial Relations Commission makes awards and approves agreements applying in the ACT private sector. These awards and agreements set the base level of entitlements for the majority of ACT private sector casual employees. The Office of Workplace Services in the federal Department of Employment and Workplace Relations is responsible for the delivery of advisory and compliance services in relation to awards and agreements in the ACT.

In order to ensure that employees receive their entitlements, it is often necessary to make workers aware that an entitlement exists in the first place. Unions provide an invaluable service in raising awareness of employment conditions, and the government is committed to promoting union membership. I know from my own experience as a union organiser the challenges that unions face in organising and educating marginalised workers, as many casuals are. This challenge is no less for government. Educating workers, particularly young workers, and employers about their entitlements and responsibilities is a key to ensuring compliance.

The government has established a tripartite Industrial Relations Advisory Committee to consider private sector industrial relations matters. This includes representatives of ACT unions and employer groups. I will ask the committee to consider strategies, which would include but not be limited to education, to raise awareness of award and agreement entitlements for casual workers. The committee, which I chair, will be meeting early next month. In every situation, educating workers about their rights and entitlements produces positive outcomes.

The motion by Mr Hargreaves today goes right to this matter. I think it would be extremely valuable to look at ways that we can ensure that casual workers are aware of their industrial rights, entitlements, but also, importantly, the avenues to pursue if they feel that they have been treated unfairly, no matter how limited these avenues may be.

Ms Tucker, while she acknowledged the government was limited in powers in this area, made a comment about having to look at funding adequately those services to ensure appropriate conditions and entitlements of pay. I have been having discussions with ACTCOSS about how to proceed with this. Daniel Stubbs is the representative on that

committee and we are certainly committed to work together to work out a process for government-funded services to be able to meet their award conditions.

Ms Dundas spoke about the increased casualisation of the public sector work force. I certainly did not think that was the case and I am just having a look at figures from the *State of the service* report which show that there has been a slight decline in the percentage of casual staff since 1998 to 2003; it has dropped from 11.2 per cent to 10.6 per cent in 2003. The commissioner is maintaining a watching brief on this issue but makes the comment that the ratio between employment groups, casual, temporary and permanent, has remained relatively stable over the past few years, with no significant evidence of increased casualisation.

In relation to the permanency of the public service, the total number of ACT government employees as at 30 June was 18,791. Of those, 16,888 were employed under the Public Sector Management Act. The trend for the ACT public service to increase in size has continued, with actual growth in staff numbers between 4.3 and 3.2 per cent in full-time equivalents.

In some of the comments of Mrs Burke, I think she was taking the typical Liberal line of using the word ”choice” as the justification for ensuring that rights and entitlements were wound back. She made comments about the flexibility and dexterity of a casual work force and said that people enjoy working two jobs and that we have to acknowledge their choice. Well, we certainly do not envisage a situation where casual employment would not remain a choice for workers. But, if you gave casual workers a choice between a permanent job where they could have some security, take out a loan and do all the things that permanent workers can do and the opportunity to work two casual jobs with the same employer, I think I can guess what their choice would be. The choice would be for security of employment, not for a range of jobs in order to reach a full-time capacity within those jobs.

Mrs Burke accused Ms MacDonald of being out of touch. Well, I would certainly argue that some of the comments she made today showed just how out of touch she is with the matters of workers. She might be in touch with some of the employers’ views on this matter. But, if she took the time to speak to the workers working these jobs and experiencing the life of a casual worker, I suggest she might form other views.

I thank Mr Hargreaves for the motion and I urge other members to support it.

MR HARGREAVES (11.25), in reply: I thank members for their support and I thank the minister for the advice on the government’s attitude. It angers me sometimes that some in this chamber have to view this sort of an issue as an adversarial one with winners and losers, and then they take the side of the possessor of power.

I do not want to take sides. I recognise the need to reward the risk taker. If somebody puts their house on the line to get a small business going, we should expect them to have a reasonable return on the risk that they have undertaken. But this reward should not be at the expense of the provider of the labour that achieves that, and certainly not at the expense of the most vulnerable provider of the labour, the casual worker.

Mrs Burke talked about people balancing work and family, and I have to say that I do not know one person who is a casual worker for that reason. No doubt such people do exist; but I do not think they are predominant in that work force. I think people who are working casually do so because they have no choice but to work in that regime. People do not generally want to work as casuals. In fact, in my original speech I quoted the Young Christian Workers and the ABS, both of which conclude that people do not want to be casuals.

Mrs Burke talked about job sharing. Well, what is wrong with permanent part-time for job sharing? Why does it have to be a casual status? It does not need to be that way. I will preface my remarks by saying that some employers are excellent employers and have an incredible regard for the welfare and the good working environment of their people, because it is a partnership; they reap the benefits and the people working for them reap the benefits. Such employers are fantastic, and I know quite a number of them. But there are employers out there who know that they can minimise their risk by having people engaged casually instead of on a permanent part-time basis. I suggest that the example that Mrs Burke gave us of a video store is just such an example.

Mrs Burke made a point about flexibility in the work force. Well, I have to tell you that flexibility is weighted particularly heavily on the side of the employer. The flexibility to buy a house or a car if you are a casual does not exist. We are not talking about short-term contracts here; we are talking about the risk. The banks look at casuals and say, "No, I can't guarantee that these people's income is going to be at a certain level." Yet, according to the surveys from the Australian Bureau of Statistics, there are people who have been in their casual job for five years. There is nothing casual about a job for five years, except that that employer was able to cough up a 15 per cent loading and abrogate his or her responsibilities in terms of long service leave accrual, sick leave accrual, recreation leave accrual and all of the other reasonable things that we have come to expect in this society today.

The response we received from Mrs Burke today was typical of that party that are supposed to be the workers friends and to govern for all Australians. My left foot they do! Mrs Burke talked about AWAs. Well, what a wonderful piece of equality AWAs are! Imagine a 15-year-old kid—even a 17-year-old mature person—going to the boss who owns the business and saying, "Excuse me. My working conditions are a bit less than desirable. Would you mind fixing it, please?" How many of the kids who work for, let us say, McDonald's, Kingsley's, KFC, do you reckon have got the courage to go to the boss who owns the store and say, "Excuse me. She's a bit slippery out the back" or, "Excuse me. I have worked really hard this week. How about a pay rise"? How many of those kids do you reckon would have the courage to front that bloke and say, "Please give me some justice, sir"? "Please give me some more gruel" would be a little bit more appropriate!

What happens is that the conversation does not ever occur, because the power is with that employer; he just would not call that person back in for another shift. That would be the end of the relationship. AWAs are a bit like a verbal agreement; they are not worth the paper they are written on.

I just want to address something else Mrs Burke said. She said that people know their entitlements. Well, I challenge Mrs Burke to come for a walk with me down to any one of the shops down here. We will talk to any number of people, and I will bet you five bob that they will not be able to tell us their full rate of pay. They would not be able to tell us what they are entitled to; they would not have a clue. Not only do I think that is right; the report *Don't bother coming in today*, which was compiled by the Australian Young Christian Workers, an organisation not known for its propensity to tell porkies, says that 55 per cent of employees did not know their correct rate of pay. Over half of the people in the casual work force do not know their rate of pay.

Sixty-one per cent have worked while they were sick. You might say that is a good move—but not if they are too sick to work. We do not want to encourage malingerers, but by the same token casual workers are going to work because they are too scared not to.

The report also said that 41 per cent wanted more hours, 26 per cent wanted permanent work and 33 per cent were working unpaid overtime. But the most significant finding was that 55 per cent did not know their rate of pay. This is an appalling state of affairs, and the reason why I bring this forward today is that I am gravely concerned that casuals are being substituted for full-time and permanent part-time workers; we are seeing an increase.

Somebody asked me what I saw as success as a parent. I thought about it for a really long time and then I concluded that the best way I could describe it was to say that I wanted a better world for my kids than the one I have experienced. Well, I walked into a job. After pounding the streets for a number of days, I got a job with David Jones, selling undies. But it was a job. My grandchild has got a job; she ha got a casual job. I worked for David Jones for $32 a week—I thought I was king. I had a great motor car with a stack of free rust in it. My granddaughter has got a casual job but, at the whim of her employer, she can just have no job. That is not a world I want for my grandchildren. I want my grandchildren to have a guaranteed education and guaranteed economic viability, but I want them to get the satisfaction of full-time work. I do not want them to go flicking from job to job to job like a table tennis ball and then to find that they cannot buy a house because they have not got a permanent job.

The people opposite squeak and squawk about affordable housing, yet they are not prepared to make sure that people who are in the casual work force have that guarantee of income, that sense of permanency to be able to go to the bank and say, "Please lend me the money to buy my house because I have found one that is affordable." The attitude of those opposite borders on hypocrisy, and it is dangerously close to that border. I thank members for their support and I look forward to the passage of this motion.

Motion agreed to.

Crimes Amendment Bill 2003

Debate resumed from 24 September 2003, on motion by **Mr Cornwell**:

> That this bill be agreed to in principle.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (11.36): Mr Speaker, the Crimes Amendment Bill 2003 was introduced into the Assembly on 24 September by Mr Cornwell. The bill aims to reduce the incidence of graffiti, a laudable aim in itself, by prohibiting the sale of spray paint cans to a person under the age of 18.

The bill amends the Crimes Act through the insertion of new sections 384A and 384B. Section 384A makes it an offence for a person, or an employer of a person, to sell a spray paint can to a person under the age of 18. Section 384B provides for the provisions of the offences to be taken as regulations under the Magistrates Court Act 1930.

Mr Speaker, the government will not be supporting Mr Cornwell's bill. Mr Cornwell's bill is opposed by us on the grounds that it is inconsistent with a policy of access to justice. The imposition of the offence of selling spray paint cans to a child, as an absolute liability offence, is also a major concern. The creation of absolute liability offences in section 384A is quite incompatible with concepts of criminal justice and criminal law, and the values of a legal system in which innocent victims are not convicted and citizens know and understand their rights and obligations under the law. There are no available defences to prosecution with absolute liability offences.

With this bill, a very careful but unlucky defendant would be incriminated and potentially convicted. The imposition of absolute liability on the offences is a harsh burden. It imposes an obligation on the person selling the spray paint can and the employer of that person to pay particular attention to the age of the purchaser and the reason for the purchase of the paint. This focuses attention on the seller and the retailer of the paint, rather than on the graffiti offender and the offence that the bill seeks to address.

The bill is also problematic because of its insertion of section 384A (6), which provides that an employer may defend a prosecution for selling paint to a person under the age of 18 if that employer had no knowledge of the sale and could not, by appropriate diligence, have prevented the sale. The bill therefore raises a very interesting question about a new term that would be introduced into the criminal law by Mr Cornwell, namely the notion of appropriate diligence. One wonders what the real meaning of appropriate diligence is, and also the standard and amount of appropriate diligence that would be required of an employer.

It is a new and quite unique notion that it is a defence to an absolute obligation if appropriate diligence was shown. This is a new standard in the criminal law, a standard of appropriate diligence. If an employer of a person who sells a spray paint can to a person under the age of 18 shows appropriate diligence in the prevention of the sale by that employee of the can of paint, then that is a defence to this absolute liability offence. For the employer to successfully plead that he or she had no knowledge of the sale and could not, by appropriate diligence, have prevented the sale, the employer would have to supervise the sales person, one assumes, for the entire time that the shop was open.

The creation of a defence provision is incompatible with the making of absolute liability offences. There is no defence to an absolute liability offence, yet Mr Cornwell seeks to

provide a notional defence of appropriate diligence. If it is an absolute offence, it is an absolute offence. It is a nonsense to thereby seek to deal with the fact that it is an absolute offence by saying, "It is an absolute offence but, if you show appropriate diligence in your supervision of your staff, then it is not an offence." I think we need to take this point and I will discuss it later: shop owners, in most cases small shop owners, would have to stand by the cash register for every minute the shop is open.

As a matter of criminal law policy, there should be a very good reason for removing the fault element of an offence. Absolute liability offences make the wrongdoer's intention irrelevant. These offences are rare. The creation of an absolute liability offence in section 384A (2) means that an employer would be liable to take the issue further, even if that employer reminded his or her employees on a daily basis not to sell spray paint cans to children and filled the store with signs to that effect.

The bill, contrary to what Mr Cornwell stated in his introductory speech, is not consistent with legislation in other Australian jurisdictions. In New South Wales, as Mr Cornwell indicated, there are laws in relation to the sale of spray paint cans to children but, in New South Wales, an employee is not liable if they believed on reasonable grounds that the person was of, or above, the age of 18 years. It is not the strict liability offence that is provided for here in the ACT. In the other jurisdiction that has sought to ban the sale of spray paint cans, South Australia, the salesperson is not liable if it is proven that he or she asked the minor to produce evidence of age and the minor made a false statement or produced false evidence, and the salesperson reasonable assumed the minor was over the age of 18.

I think we all support the intention of the bill, which is to reduce the amount of graffiti that despoils some buildings but, having said that, I have to say that I find some graffiti quite attractive. I know most people are often appalling outraged by it but I see, on underpasses around Belconnen, some quite incredible and beautiful art. There is some on the underpass on Caswell Drive that I would draw to members' attention and suggest they visit. It is quite beautiful artwork and I think it is quite appropriate in that circumstance.

Having said that, of course, there is much graffiti that is offensive, that is expensive to remove, that does despoil our homes and buildings and that grates on us all. Graffiti, the despoiling of buildings and the vandalism that is essentially at the heart of graffiti is abhorred by the majority of us, but I am one of those who feel that our pursuit of young people who vandalise and despoil buildings, and paint graffiti, really does raise a number of other issues. It is not simply a black-and-white criminal justice issue and we should not look at it like that.

In relation to all these sorts of offences, we should always be open to looking at some of the underlying causes of the antisocial behaviour in which our young people engage. One of the reservations that I have, and one of my objections to this form of law making, is that it avoids a range of issues arising from the causes of antisocial behaviour. It is simplistic, it is populist and it goes straight to the criminal law. This is populist, red-necked law and order legislation of the first order and let us not be mistaken about that.

This is not the sort of law that seeks, at any stage, to address the real issues involved in the antisocial behaviour of our young people, our children, our grandchildren, our

neighbour's children and our nephews and nieces. It is almost as if this is us and them, that our children and our families are above all this sort of behaviour. They are not. When we are talking about banning the sale of a product to people under the age of 18, we are talking about our children, our neighbours, our grandchildren and our nephews and nieces. You should put this sort of discussion in that context. We are talking here about creating the sort of community of which we want to be a part, of which we want to be proud and in which we want to bring up our children. You do not achieve that through this sort of legislation.

It is very simple and it is very easy. It is actually harder to stand up and oppose this than it is to stand up and propose it. To stand up and oppose it really does require you to address some of those underlying causes of antisocial behaviour. Rather than just debating the undesirability of absolute liability offences, and the reasons that the law that Mr Cornwell proposes is wrong as a matter of strict criminal justice practice and process, we should debate this propensity of the Liberal Party to seek to nail down and screw down all of those that they see as law breakers. Of course, here we just target young people: "Young people are off behaving in this vandalistic way. Just ban the substance." In relation to—

Mr Pratt: What do residents think, Jon?

Mr Stefaniak: You are just like your comrades in New South Wales and South Australia.

MR SPEAKER: Order, members! The Chief Minister has the floor and there are too many conversations going on in the gallery. You do not escape, members, by going to the gallery.

MR STANHOPE: It is simplistic and it is populist and the history of the world tells you that banning things does not work. We banned the sale of cigarettes to children donkeys years ago. I do not think the banning of the sale of cigarettes to people under the age of 16 has had any impact on the propensity of children to smoke. I do not think the banning of the sale of cigarettes to children under the age of 16 has had any impact on the availability of cigarettes or on the capacity of children to access cigarettes.

Mr Pratt: Yes, it has. It has slowed down.

MR STANHOPE: Mr Pratt says it has slowed down the availability of these illegal substances. That is a load of garbage. If people in this place think that any child who wants to smoke cannot access cigarettes, they are living in a little vacuum, completely divorced from the reality of the life.

Mr Pratt: You are on cloud nine, Jon.

MR STANHOPE: I am on cloud nine? I have had four children. I have brought them up and managed to get them through their teenage years. I have managed to get them all past the age of 18 and they are all leading reasonably stable lives and are reasonably well adjusted. They laugh with me, now that they are adults, about how they accessed alcohol when they were 14, 15 and 16, and how they accessed cigarettes and did similar things, things that I was perhaps suspicious of, but innocently unaware of at the time. Of course,

for Mr Pratt to stand up in here now and pretend that any child who wants cigarettes cannot get them shows the extent to which he is divorced from the life of Canberrans. It is a nonsense.

The point I make is serious: to come in here and suggest that banning spray cans will have any impact on the amount of graffiti or the use of spray cans is just wishful thinking. It is not based on evidence. In fact, the Australian Institute of Criminology, in a significant paper—I think the most significant paper delivered on the implications of banning spray paint cans—suggests the contrary. The Australian Institute of Criminology thinks that the banning of the sale of spray can paint to children will have the reverse effect to that sought by those that would ban it, by the banners. In fact, it will encourage the purchase and the use of paint as an act of rebellion, if one might regard it as such.

That significant paper was done by Geason and Wilson in 1990, was entitled "Preventing graffiti and vandalism", and was part of the crime prevention series produced by the Australian Institute of Criminology. I know that Mr Stefaniak, as the shadow Attorney-General and somebody who understands the work of the Institute of Criminology, would accept that the Institute of Criminology is the pre-eminent criminal justice research organisation in Australia. This pre-eminent criminal justice organisation, in the most significant paper published by it on this subject, namely "Preventing graffiti and vandalism", recommends not banning the sale of spray can paint to children under the age of 18.

There is the evidence. There is the research that has been done. The Institute of Criminology says, "Do not do this because it will not work. You will probably exacerbate the situation. It will probably lead to an increase in graffiti. You will probably end up with a result that your legislation was designed to avoid." This is bad law, it is bad legislation, it ignores the underlying causes of antisocial behaviour in our children and, according to the Australian Institute of Criminology, not only will it not work, it will make the situation worse. There is the evidence. There is the research.

Of course, this legislation is very easy and cheap politics. It is good populist law and order, the redneck, lock-'em-up, fine 'em, send 'em away stuff that the Liberals are into. It is easy. It means you do not have to address the hard social issues, you do not have to do the hard yards and you do not have to do the hard work.

Mr Stefaniak: You are not doing that.

MR STANHOPE: Yes, we are. We are doing the hard work on addressing disadvantage. You are not. You are taking the easy way out and, really, you should be ashamed of yourselves.

MS TUCKER (11.52): The Greens will also not be supporting this bill. This approach will not deal with the problem of graffiti vandalism. In fact, as Mr Stanhope has just argued, it will arguably increase the problem as it will further marginalise the young people involved.

I think it would be interesting for the Assembly to hear about how another region has dealt with the issue of graffiti vandalism. I am assuming that Mr Cornwell did some research before he put up this bill, but I did not hear him refer in his tabling speech to

any of the work that he had done, or any of the evidence that he was using to support his particular response. I will bring into this debate an example of a council, the Warringah Council in New South Wales, which won the national local government award for innovation for the Warringah graffiti project. The project is still going and it has been very well received.

It started in 1998 and, according to Mr Ken Dray from the New South Wales Premier's Department, "Warringah Council was the first Council in NSW to systematically and strategically develop a policy on graffiti and give it enough time and resources to see whether it worked."

The objectives of the project were to:

- educate the community about graffiti art and foster the acceptance of legal work and the culture around graffiti;
- increase public access to legal, high quality and innovative visual arts programs;
- build positive relationships between the community and young graffiti offenders and artists;
- provide murals which showcase the creativity of young local artists and instil a sense of pride;
- establish a mural restoration and graffiti clean-up team, consisting of young people involved in creative components of the projects;
- ensure detailed documentation of processes, including videos, reports and the extension of a graffiti website;
- encourage events which promote the art of graffiti and create awareness of social problems related to illegal graffiti in the community;
- promote the other elements of hip-hop culture, to divert creativity in other directions, for example, breakdancing, rapping and so on;
- increase employment opportunities, mentoring partnerships and traineeships for artists;
- improve the artistic skills of young people by providing opportunities for involvement in visual arts.

The outcomes include the following:

- the incidence of illegal graffiti on the northern beaches has been reduced significantly;
- there has been a change in the level of community acceptance of aerosol art, as opposed to attitudes to illegal tags;
- there have been economic benefits as the clean-up costs to Warringah Council have decreased;
- customer service has been improved by involving young people in a process that was foreign to them, thereby making council more accessible and community involvement less intimidating;
- there has been a reduction in the incidence of vandalism as reported by the New South Wales police.

Corporate outcomes have been achieved through a collaborative approach in which ownership of the project is shared among different departments within the council. Illegal tagging ex-offenders have been rehabilitated. The result is a reduction in the

number of young people involved in the criminal justice system because of graffiti and vandalism. Relationships between local youth and the police have improved. This has been reported by both parties and reflected in a substantial reduction in graffiti prosecutions.

There have been social outcomes, in that the young people participating have developed new social skills that have enhanced their personal careers and educational opportunities. Other flow-on benefits have been achieved for council and the community by reducing youth marginalisation and showcasing young people's talents and culture to the community.

From the outset, Warringah Council staff involved and sought the input of a broad cross-section of the community, in order to develop a sense of ownership of the project and a partnership between council and the community. A steering committee was formed to act as a guiding hand throughout the life of the project. Representatives on the committee included members of the chamber of commerce, police, Department of Juvenile Justice, New South Wales Premier's Department, interested community members, young aerosol artists, councillors and staff.

Young people, a section of the community often disregarded by government and business, have been engaged in this project as key customers and have responded enthusiastically. There has been a clear and conscious effort to involve young people in ways that are relevant to them at every stage of the project's development.

The fact that young people have become enthusiastically involved in processes that are largely foreign to them, sitting as equals on council committees, has been an achievement. For example, one of the objectives of the Warringah graffiti policy is to develop a partnership with the local community to reduce graffiti, including involving young people as partners and advisers in reducing graffiti. This was supported by the following policy principles:

- involving young people in the council's anti-graffiti program;
- recognising the need to help enforce an environment in which young people are valued and their needs are integral to local planning.

Such actions support an environment in which graffiti is minimised. To date, the level of consultation with community groups and agencies has been very high. Attendance rates at steering committee meetings indicate the strong interest in the project.

A major achievement of the project involved Robert Edwards, a young member of the steering committee, who received the Warringah young citizen of the year award for 2000. Robert had previously been a well-known tagger in the area, who had considerable contact with the juvenile justice system because of his activities. He dedicated his spare time to the project by designing and creating murals. He assisted in organising the graffiti workshops. He has been a role model for many young taggers and provided the steering committee with a valuable insight into the minds of young people who choose to use illegal graffiti as their means of communicating.

The committee has gained a great deal and, as a result, attitudes have begun to change. An outcome of Mr Edwards' influence was a change in the attitudes of the police. The

police youth liaison officers started attending the graffiti lessons at the youth centre and had open discussions about graffiti.

Let us contrast that approach, which is one of thoughtfulness, compassion and interest in the social dynamics, with Mr Cornwell's tabling speech. I absolutely reject the language that he has used. Mr Pratt, in his loud interjections for the last five or 10 minutes of Mr Stanhope's speech, continually talked about labelling. He said he was being labelled because Mr Stanhope talked about the response from Mr Cornwell—and I would add Mr Carr, unfortunately—as being populist, ill thought out and part of a law and order campaign.

Mr Pratt did not like that labelling. I do not like hearing a member of this Assembly talk about young people in this community as "pathetic specimens", by saying that the level of "their literacy presumably extends to only these rather primitive signs" and that they are "carrying on their moronic pursuits". I think Mr Cornwell should withdraw that for the sake of the integrity of this place. He nods because he is comfortable with it. It is a tragedy. When I read those words, I could not believe it.

I am interested in talking about this issue a little further. I wonder if Mr Cornwell has done any work at all to understand the culture of graffiti and hip-hop. It certainly does not appear so. For the benefit of Mr Cornwell, if he is even vaguely interested, people who do graffiti are generally known in the cultural group as writers, graffiti writers. Writers can either do tagging or naming, or they can do piecing, which Mr Cornwell and other people describe as street art.

These writers, the taggers and the namers and those who do the pieces, are not totally separate groups, neither are the forms of art separated or the skills different. This connection is actually a positive thing. It enables projects such as the Warringah Council's project to work. If tagging is driven further underground and separated from the work of the aerosol artists, there is less chance of fostering the taggers' work, thereby increasing their skills and encouraging them to engage in the art form in a positive way.

The relationship with the graffiti writers in the ACT should be developed, not smacked around by legislation such as this. Any evaluation of even the current approach suggests that it is far from effective. We have a costly and arguably ineffective system whereby a cat-and-mouse game occurs between the graffiti removal team and graffiti writers. We have even had a case where the team offered to totally repaint the wall of a shop in Kambah that had been used by graffiti writers for 10 years, with the permission of the shop owner. The argument put to the shop owner by the team was that allowing the wall to be used as a legal space was encouraging graffiti.

However, not surprisingly, once that space was made unavailable, graffiti vandalism increased in the area. This example raises questions about the government policy, but also particularly about the role of the graffiti removal team in policy. We are seeing a decrease in available legal places in Canberra. Those at the Griffin Centre and the youth centre are going, and the Woden interchange place is going and that is a good space. I want to know whether the government is thinking about this in its policy for redevelopment, particularly the Bunda Street redevelopment. I understand that the skate park at Weston Creek was painted over recently, because a resident complained. Is this government policy? Were the artists consulted? As far as I know, they were not.

There are hours and hours of work involved in doing this artwork and yet the graffiti removal team can come in with its rollers and, in a very short time, wipe it all out. I understand that there has been a general reduction in available spaces since the mid-90s, when there was a backlash, mainly because graffiti removal teams have not allowed the backs of shops to be used. This should be looked at in terms of its impact on vandalism.

Instead of supporting this ill-considered response, we should be following the lead of places such as Warringah, which has won an award for its approach. Also, most European countries now take a similar approach. Germany, Holland, France and the Scandinavian countries have all worked out that it is a much more intelligent policy to work with young people, recognising the place of graffiti in youth culture. We should evaluate the costs of taking a punitive approach against pushing the kids in the right direction. Graffiti is part of youth culture and is respected by many young people.

We should work with young people in a way that will recognise that graffiti art is a legitimate art form and that, by working with them, you can significantly reduce the incidence of vandalism, as well as support healthy and positive activities for the young people involved.

I also do not know why Mr Cornwell thinks it is mostly under 18-year-olds who are responsible for vandalism of this kind. If he talked to youth workers or young people around Canberra—I doubt they would want to talk to him after the language he has used about them in this place, but if they felt they could talk to him—then he would find out that it is not necessarily the case at all that the people who are vandals are under 18.

Mr Cornwell: You read most of my speech. Didn't you read that section?

MS TUCKER: Mr Cornwell will have an opportunity to respond. I do not interject when he is speaking and ask him not to bother. I also want to make the point that, while this legislation will obviously not be passed, I am very concerned about what is happening in Canberra. We have seen an increase in vandalism. I think it is directly related to a lack of support from government. There are some legal walls, but I think the government should look seriously at how it can support the youth sector, youth workers and youth centres. Members of this Assembly were at Belconnen Youth Centre last week, looking at graffiti art there. There are some projects, but not enough.

We need more mentoring schemes, we need more public spaces and we need to work with the young people. We need to consult with them about the issues of vandalism and we need to give the kids and older people who are involved in this art form an opportunity to have their work respected in the community. That is the key to what they have done in Europe and in Warringah.

Community awareness is needed and that is clearly demonstrated by people like Mr Cornwell, who call young people engaged in this form of art "pathetic specimens". To be fair, he was probably talking about the taggers, but that language is still absolutely repellent. I reject the use of it about young people who, at this point in time, are doing antisocial acts of graffiti. The point is that we need to work with them, to enhance their

skills, to encourage them to become involved in developing their skills for the graffiti pieces, and then we will see a reduction in the vandalism.

If you are going to try to ban access to aerosol paints, all you are going to do is make some young people, particularly, more angry and that it is a reasonable response. I think that we have opportunities in this place to take a much more intelligent, thoughtful and, dare I say, compassionate approach to young people in our community. I think Mr Cornwell's tabling speech was appalling. (*Extension of time granted.*)

I also have to mention briefly how poorly constructed his bill is. Mr Stanhope was very articulate on the comments from the scrutiny of bills committee, so I will not take up members' time by repeating that information, but it does have to be noted as another reason for not supporting this legislation.

MR STEFANIAK (12.07): It never fails to amaze me how this government can seize on something like a new tax initiative from New South Wales, which of course we should have in the ACT, and the need for parity between the ACT and New South Wales when it suits them and yet, in anything remotely to do with law and order issues, it says, "No, we cannot possibly do that. Good old Bob Carr is too red-necked there. We have to look at things such as root causes and there is no way in the world we should be in concert with New South Wales."

What absolute nonsense! I think that, if there are good initiatives coming out of New South Wales in any area, it is very sensible for us to follow them, especially because the ACT is an island within the state of New South Wales. It never fails to amaze and sadden me that, when it comes to an issue such as this, we have the same knee-jerk reaction from the Chief Minister, calling the opposition rednecks and saying that we are populist and into law and order. I suppose we are into law and order; I make no bones about the fact that the community has a right to be protected, that all of us are here with a duty and a responsibility to protect the community.

While this is just one small issue, it is an issue that is very annoying to the community. I am sure that, next week, when we debate my sentencing package, the Chief Minister will use exactly the same excuses and probably misinterpretations of the law, and distance himself from New South Wales in that regard.

In other areas, oh yes, we have to follow New South Wales. I think I counted about three or four occasions on which Mr Quinlan has said that in the last three months, in other areas. But not when it comes to matters such as this, not when it comes to anything to do with the criminal law because, at the end of the day, unfortunately for Canberra citizens, this government is soft on crime. I think that is a great shame.

There are a number of approaches you can take to graffiti, but Mr Cornwell's is an eminently sensible approach. He has taken this approach because he has seen the benefit of legislation in other states, specifically New South Wales, which has brought this in and for very good reasons. Graffiti is an Australia-wide problem and that probably extends to other countries as well. New South Wales and South Australia, the Attorney tells us, has brought in laws to ban the sale of spray cans to people under 18.

The Attorney has a somewhat esoteric point and he went off on a bit of a tangent to the wording of a clause in Mr Cornwell's bill, but he certainly conceded that New South Wales has a very similar law for banning the sale of spray cans to under 18-year-olds. I understand that law has been in force since September. We probably have not been able to see how effective it has been to date, but it has been brought in, no doubt after a lot of thought by the New South Wales government. I think the New South Wales government has adopted a number of very sensible approaches to the law in the criminal law area, as has South Australia.

South Australia is hardly a state with a redneck reputation. Indeed, much of the case law that is followed by the courts here in the ACT emanates from the South Australian courts. South Australia has also brought in a very similar law. Mr Stanhope seems to think that this will not stop any graffiti, that it will not matter one jot, just like smoking. I suspect he is very wrong there and I also suspect that we should at least give it a go. If it is good enough for New South Wales and South Australia, it should be good enough for us too. Let us see how it works.

The various laws stopping juveniles getting cigarettes have probably slowed down a large number of kids. I am certain that banning the sale of spray cans to under 18-year-olds will slow down a number of kids, too, who would otherwise cause some significant problems in our community.

Probably because of the very nature of graffiti, the majority of people who tend to do it are younger people, so banning the sale of spray cans to under 18-year-olds is a very good start and one step towards ridding us of this problem, or at least reducing the problem. One of the constant stream of complaints that I get in my office from constituents is about ugly, often obscene, nasty graffiti that really annoys people. It looks tacky and often, if it is on a disused building, it invites other bad forms of vandalism, such as breaking windows and so on. It is something that all governments have tried to do something about to some extent.

Other points that Mr Stanhope raised included that Mr Cornwell has talked about a new definition, a new matter of appropriate diligence. I had a look at that section. Mr Stanhope destroyed his own argument when he started referring to what New South Wales and South Australia has done. Indeed, I put it to him, if he is serious all he has to do is amend Mr Cornwell's bill and bring in either the South Australian or the New South Wales defence to a strict liability offence.

Of course, he is not going to do that because, at the end of the day, he does not want to support a bill such as this for the reasons he gave later on in his speech. I think what he has to say in relation to appropriate diligence is a nonsense. When he read it out, it seemed to me to be not all that different from what there is in New South Wales and South Australia. Indeed, I am advised by my colleague Mr Cornwell that, when drafting the bill, as all of us do, he went to the office of the parliamentary counsel, whose staff made this bill as close as possible to the New South Wales bill.

I do not see a particular problem with that term. If there is a problem, he can simply uplift the New South Wales equivalent, if that makes people happy. However, I suspect it will not, because most members of this house do not want to see this legislation in force.

They do not want to back what is happening in New South Wales. They have a very different approach to those on the opposition benches when it comes to addressing criminal issues, even minor criminal issues such as this.

If you compare this with some other issues, you will see that the government is dead set to bring in industrial manslaughter legislation, as no other state has yet done. We will now have two laws of manslaughter. It is dead set to bring in something that no-one in this community has been busting a gut for, namely a bill of rights. I await with trepidation some of the effects that will have when this Assembly passes it early next year.

Yet, when it comes to something like this, they will use all the excuses in the world to stop it coming in. This is not a panacea. It is one thing that I think will help address the problem of graffiti. In no way would we expect it to wipe out graffiti. There will always be some graffiti; you can never completely wipe it out. However, to say, "We are addressing the underlying causes" is really an excuse. It is a pathetic excuse because even Ms Tucker concedes that this government could be doing more about the underlying causes. There are always going to be underlying causes.

As hard as any government may try to look at the underlying causes, it is never going to completely wipe out all forms of antisocial behaviour. There will always be some form of antisocial behaviour. What you want to do, for your community's sake, is minimise it. Another term that those opposite are very happy to bandy about is harm minimisation. Put your money where your mouth is; what Mr Cornwell is introducing is a form of harm minimisation.

Yes, it may not necessarily address the underlying causes, but nothing you are doing is doing that either and you are never going address them completely. You use that as a great excuse which you trot out. It is a great excuse to do absolutely nothing, and it is a great excuse to avoid taking the very sensible path that sensible Labor jurisdictions such as New South Wales and South Australia have regarding this matter and that New South Wales has taken with regard to other sensible reforms of the criminal law. It is a pathetic excuse for doing nothing. I hope that most members of the public will see through that.

I think Mr Stanhope also quoted from the Institute of Criminology. That is all right; the institute has its views. There are a lot of people in there who have certain views; they do research. I can recall research they did probably in the late eighties. Members of the Labor Party and perhaps others in the first Assembly used some of that research to support their saying, "We cannot possibly have things like move-on powers. The Institute of Criminology suggests x, y, z as a result of that." I happened to disagree with the Institute of Criminology at that time and I think I would disagree with the Institute of Criminology in relation to this. The institute is entitled to its opinion, but that is not gospel and other states obviously do not feel constrained to accept it. They have gone down this path.

Ms Tucker mentioned an experiment that had happened at Warringah. I find that interesting for two reasons: it did not seem like a bad program, but also, of course, New South Wales has banned the sale of spray cans to under 18-year-olds, yet something

like that can still go ahead. Obviously, a program like that is something we could do here. We have had programs here that were run under supervision in a more controlled environment. I can recall one done through a youth centre during the time that we were the government. There is nothing to stop something like that happening now.

Maybe some of the under 18-year-olds who are currently getting spray cans, causing some mayhem and annoying people in the neighbourhood with bad graffiti, could, if they cannot get spray cans as readily, go to some supervised activity and engage in some decent form of art as a result of that. They might get their jollies that way and feel quite comfortable with that, and not have the same urge to spray graffiti around the neighbourhood and annoy honest, ordinary, average citizens in the neighbourhood who do get very concerned about it.

One other suggestion I would make to the government is graffiti squads. I do not know if Urban Services still have something like that, but I can recall that, in 1995, the urban services minister, Tony De Domenico, introduced graffiti squads who would hit an area that had been graffitied very, very quickly. That would often have a very good effect, because one thing graffiti makers do not seem to like is having the graffiti cleaned up immediately. It tends to slow them down, they get the hint and perhaps move on. Again, it is not going to stop everyone, but we found that approach reduced the problem too.

There are a number of things this government could do which it is not doing. It could have some more programs that control the use of spray cans and make graffiti into an art form because, on this matter, the one thing about which I agree with the Chief Minister is that, if you do have a work of graffiti art, you do not tend to get tags on it. That is something we can build on.

At the end of the day, you can have all the programs in the world, all these well-meaning attempts to look at root causes or to encourage people to do things in a more civilised manner, but it ain't going to work all the time. Life is not like that. At the other end of the scale, you also need strong laws that make it very difficult for people to go ahead and break the law. That is exactly what Mr Cornwell has done here with his particular piece of legislation.

Unlike the government, which had to bring in an amendment yesterday for a strict liability offence because it had imposed a term of imprisonment for what was a relatively minor offence, Mr Cornwell does not do that and his legislation imposes a maximum penalty of 10 penalty units or $1,000. That is eminently appropriate for something such as this. He then has a defence in his subsection 384A (6).

The Chief Minister might not like it and the Chief Minister might be going into all sorts of legal contortions to say that there is something wrong with it—I reiterate my offer to the Chief Minister: if you do not like it, bung in the New South Wales defence or the South Australian one, because Mr Cornwell is not going to mind—but I think perhaps the Chief Minister might be being a little insulting to those wonderful people in the Parliamentary Counsel's Office, who are very careful with what they draft. As I said earlier, Mr Cornwell wanted this to be as close as possible to the New South Wales legislation and that is what they have done. It seems to me to be a reasonable defence to a prosecution to have what he has here, which is that the employer had no knowledge of the sale and could not, by the exercise of appropriate diligence, have prevented the sale.

In statutory interpretation, you give the words their normal, natural meaning in English and I do not think appropriate diligence is all that difficult. I have not looked at the New South Wales or South Australian legislation but, when the Chief Minister read out what was there, it was not very difficult at all to understand how it would operate in a court. If people have a problem with that, they could amend subsection (6) and put in either the New South Wales or the South Australian defence.

At the end of the day, that is not the real concern of people who are opposing this legislation. That is merely a mask, an excuse to vote against this particular piece of legislation. The real reasons that most of this Assembly are not going to vote for it were expressed by the Chief Minister later in his speech, and so far by Ms Tucker as well. I do not accept those reasons. I do not think that, if you go down that track, you are going to make much difference whatsoever. Quite clearly, even Ms Tucker accepts that the government has not exactly done a huge amount when it comes to addressing the root causes of some of our youth problems.

At the end of the day, no matter what the government does, there will always be some problems. You do need good programs, but you also need good, strong, sensible, tough laws, which people in our community expect. Mr Cornwell should be commended for his very sensible attempt to bring us into line with New South Wales in relation to this problem.

MS DUNDAS (12.23): The ACT Democrats oppose this piece of legislation. We see it as regressive and misguided.

I want to address some of the points Mr Cornwell made in his opening speech. Mr Cornwell argued that this bill would have no undue effect on business or on under-age people who have need of spray cans. Nothing could be further from the truth. Mr Cornwell seems to believe that the majority of spray cans sold in the ACT are sold to minors with the sole purpose of producing graffiti. I think that Mr Cornwell is looking at the issue in a rather simplistic way.

To quote from the press release that Mr Cornwell put out on 25 August, "Zero tolerance is the only way to get through to those graffiti vandals who continue to deface public and private property at great expense to the Canberra taxpayer." Well, Mr Cornwell's zero tolerance is going to have a devastating impact on young people, both symbolically and practically.

What about the kids who become panel beaters, whose bosses send them to Autopro to pick up some paint so they can touch up the tyres, or the apprentice painters who, at Mitre 10, can only buy liquid paint but have to get their bosses to buy the spray paint? For an opposition, for a Liberal Party, which speaks at length about supporting young people at risk through apprenticeships and vocational training, to then limit access to the tools of their trade is quite unbelievable.

A lot of the trades that kids at risk are entering require the use of spray cans, be that painting or be that working in metal shops, and yet you seem to think that they should not be able to fully access the tools of their trade to get the training they need to participate in our community. I fail to see the logic in that argument.

What about the artists who want to display their art legally at one of the designated wall art areas but do not have an adult to purchase the materials for them? Again, I would like to touch on the Belconnen Youth Centre's opening only in the last fortnight, which included a quite amazing aerosol art display. The new signage for the centre is also a piece of aerosol art.

Mr Pratt: We have no objection to that.

MS DUNDAS: Mr Pratt, you were there. I am disappointed to see this kind of legislation produced in response to the positive work being done by the young people in our community.

There are many legal reasons for purchasing spray cans but there are no logical reasons for the exclusion of one sector of the community from purchasing them. The logical extension of Mr Cornwell's amendment is to ban the sale of hoses to everybody under the age of 18, in case they try to make bongs with them. I am waiting for the piece of legislation from Mr Cornwell banning the sale of plastic containers to everybody under the age of 18 because they might use them for an illegal purpose. I am sure that Mr Cornwell does not want to suggest that the sale of motor vehicles to people over the age of 65 should be prohibited because some people over the age of 65 have bad eyesight.

This legislation is a step in the wrong direction. It has also been suggested today that, since New South Wales has introduced legislation such as this, the ACT should do so as well. In some places we are following New South Wales' lead, such as with workers compensation, where it makes sense to have a positive piece of legislation work across the jurisdictions. However, just because one jurisdiction introduces regressive and ill-conceived legislation, that does not mean the ACT has to follow suit. If this is an argument to which the Liberal Party is going to wed itself, then I suggest it looks at what Tasmania has done in relation to same-sex couples. Perhaps we should follow Tasmania's lead in that aspect of legislation.

I will now quote from a paper produced by the aerosol industry itself, which talks about its view on the sale of aerosol cans. It says that one of the issues that it has with the lock-up legislation that has been put in place in relation to graffiti and the sale of aerosol cans is that it appears to be a quick fix solution. It says of those places that have introduced such legislation, "Indeed it is now suggested that they may well have exacerbated and hastened the shift to more destructive forms of tagging such as glass etching and the use of chemical etching compounds."

In London, the London Underground estimates that it will cost over £10 million to replace all the glass that has been etched with graffiti in its trains. It appears that the legislation before us is a knee-jerk reaction that does not really look at the underlying issues. The aerosol industry itself has said that, if you ban the sale of aerosol cans because you want to stop graffiti, glass etching emerges as a problem.

A South Australian report by Halsey and Young from 2002 urged the South Australian government to develop techniques for monitoring the relationship between making spray paint harder to obtain and possible increases in other modes of graffiti written without

the use of paint—such as that created with rocks, keys and coins—and techniques for estimating the cost of removal associated with various substances, such as paint, walls, coins and glass.

It appears that Mr Cornwell really has not looked at the issue in a holistic sense. He is trying to stop graffiti by preventing the sale of spray cans to a proportion of the community, without really looking at whether the sale of cans is leading to graffiti or whether stopping the sale of cans will lead to other forms of graffiti. This approach does not address the underlying social issues.

I have spoken before about how this legislation has symbolic and practical impacts on young people. The symbolism of the legislation is that we are effectively saying to young people, "You are not to be trusted." The bill says to young people that we believe there is no legitimate reason for them to purchase spray cans, despite some very obvious examples to the contrary and, because a tiny fraction of their peers commit the occasional act of vandalism, they will all be punished.

Banning the sale of spray cans to under 18s will not reduce graffiti. It will only serve to further alienate young people and increase the likelihood that they will find themselves in a downward spiral in the criminal justice system. There are many measures to reduce graffiti that do not involve stigmatising young people. This legislation is not one of them and Ms Tucker spoke at length about alternative programs.

I want to discuss what has happened in Queensland, because I believe that this legislation is a step in that direction. Queensland has laws banning young people from carrying—just carrying—Nikko pens, thick magic markers, if the police have a reasonable suspicion the pens are being used for graffiti. People have been charged, the penalty being a maximum of two years in jail—two years in jail for carrying a pen not much bigger than this one.

According to youth legal advocates in Queensland, it is the single offence for which young people are most likely to be charged but of which they are least likely to be convicted. They are brought into the criminal justice system for carrying a pen, which means they have a negative relationship with the police. They are not likely to be convicted, so the charge does not stand up in court. It involves young people in the youth justice system unnecessarily and the relationship that young people have with police further degenerates as a result. That is what happened in Queensland and the legislation before us is a step in that direction. We are reacting in a knee-jerk fashion to graffiti: we will be saying that spray cans cannot be sold to young people and that, if young people have them, they are obviously undertaking criminal activity.

This piece of legislation will not promote positive relations between young people and the police, it will not promote positive relations between young people and legislators, and it will not promote positive relations between shop owners and young people. All of these things should be considered when we are looking at this legislation. We should realise that young people are part of this community and that what this legislation does is say that we do not think that they are normal people, that we do not think they are part of this community, like everybody else, and that there should be special rules for them in relation to spray cans. That is a very regressive step and a very negative step, and so I will wholeheartedly oppose this legislation.

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

Sitting suspended from 12.32 to 2.30 pm.

Visitors

MR SPEAKER: Before we proceed, I would just like to welcome visitors in the gallery from the ANU's graduate public policy program. A delegation has been to the Assembly before and met with members. This year's group will include people from Cambodia, Indonesia, Laos and Thailand. Welcome.

Members: Hear, hear!

Questions without notice

Answers—length

MR SPEAKER: I remind members that the five-minute time limit in relation to answers will apply as of today.

Economy—Standard and Poors' rating

MR SMYTH: Mr Speaker, my question without notice is to the Treasurer. Yesterday, the rating agency Standard and Poors released their latest ratings for the ACT. The good news is that the highest local and foreign currency ratings were confirmed. Of concern to the territory, however, is the conclusion by Standard and Poors of what is described as a "structural deterioration in finances" and the comment that "the ACT government's budgetary policy has been expansionary, introducing a number of new programs for which the costs far outweigh extra revenue measures".

Treasurer, do you accept that the ACT faces a "structural deterioration in finances"? What are you and your government doing to resolve this problem?

MR QUINLAN: I guess it depends how you define "structural deterioration". It is, I think—excuse the pun—standard fare for rating agencies to sound some warning or other; otherwise they would appear to not necessarily have examined as closely as they might. It is likely that that warning would be in the vein of the economic rationalists that you would expect to be included in the complement of Standard and Poors raters.

We did see this press release yesterday, Mr Speaker; so we thought it might be a good idea if we rang Standard and Poors to find out what particular expansionary programs they were referring to. The answer came back: "Well, not in particular; just that you have spent more money." There seems to be an inference in the way that they have framed their warning that no government should enter a program unless it has revenue associated with it. We have entered into programs where the revenue might not necessarily justify the expenditure.

Let me tell this house that this government is interested in quite a number of programs that will not have an economic return. We are far more concerned with a social return and will continue to be so. There is not a great deal of concern in the government, let me say, as to what Standard and Poors have observed. They have acted by saying specific things that this government has done and shouldn't have done.

However, Mr Speaker, if those on the other side of the house thought that there were things that the government was doing and that they would exclude or reduce in some way should they come to power, I would love to hear from them. I think the people of the ACT would also love to hear from the opposition if they thought that, underlying Standard and Poors, there were some real changes that ought to be made and they would make them.

I leave that challenge on the table and repeat, in closing, that this government is far more interested in social return, community return, in many of its programs than it is in just returning a profit. You don't turn a profit on health services. You don't turn an immediate profit on education—you invest in it, and we are. You don't turn a profit on disability services at all in terms of monetary gain.

Government is far wider than one could infer from the Standard and Poors' view. If the opposition's view of government is in the same vein as Standard and Poors, I am sure the people of Canberra would like to know that.

MR SPEAKER: A supplementary question, Mr Smyth?

MR SMYTH: Yes, Mr Speaker. Given that you are more interested in a community and social return, if Standard and Poors are right and you have overextended yourself—

MR SPEAKER: Preamble, Mr Smyth.

MR SMYTH: What programs will you cut to fund the community and social returns?

MR QUINLAN: We have, within the budgets that have been brought down in this place, a series of forward estimates. You can see what programs the government has in mind, where it expects to gain this revenue. If there has been any debate in relation to the budgets that have been brought down in this place, it is that they may be too conservative. There has been—at least on this side of the house; there hasn't been on the other side of the house, I don't think—a conservative approach in recent times. We have started the spendometer, Mr Smyth.

Mr Smyth: Standard and Poors said you're the spender, Mr Quinlan.

MR QUINLAN: Standard and Poors have rated the ACT as AAA, top rating. Members who have done their homework would be aware that other states around Australia are just struggling to get up to AAA ratings and are just arriving at them. The ACT is in good stead. If the opposition wants to lay the responsibility for having a AAA rating at the feet of this government, we are happy to accept it.

Public hospitals—elective surgery

MS MacDONALD: Mr Speaker, my question, through you, is to the Minister for Health, Mr Corbell. Minister, can you outline the impact of the government's $2 million investment in elective surgery in ACT public hospitals?

MR CORBELL: I thank Ms MacDonald for the question. This is an important question because the government is focussing very strongly on improving access to elective surgery in our public hospitals. As members would be aware, the government announced in the last budget that it has invested $2 million per annum for the next four years, $8 million in total over four years, extra to improve access to elective surgery in our public hospitals.

We have just witnessed in the past four months the busiest start for elective surgery in the ACT for a long time—2,939 people have accessed elective surgery in the first four months of this year. That is an increase of 17 per cent on the total for the first four months of 2002-03.

Mrs Dunne: That's because you closed Calvary down.

MR CORBELL: And, Mr Speaker, the interesting thing to note—

Mrs Dunne: Simple—last year Calvary was not operating.

MR CORBELL: Well, let us compare Labor's record with that of the Liberal Party for the equivalent period 2000-2001 when they were in power. We are still seeing 5 per cent more people getting access to elective surgery under this government than we saw under the previous government in their last year of office. So the bottom line is that the government is improving access to elective surgery.

The $2 million, of course, is our $2 million. We are paying for these services. We are not seeing, like the Liberals did, a reliance on Commonwealth payment. We are paying ourselves; we are making the investment as a community to improve access to elective surgery. More people are getting their surgery under Labor.

Mr Speaker, in September 2003 we saw the highest number of people admitted for elective surgery for any quarter in over three years, including the last year of the previous government—the highest number of people admitted in over three years for any quarter; the highest number of monthly admissions for elective surgery since November last year; and the highest number of people added to the elective surgery waiting list by their surgeons since July 2000. So we saw more people being added to the list, increased demand but also increased service—increased service because of the $2 million per annum the government is investing in relation to elective surgery.

Just last month we saw a 118 per cent increase in the number of procedures. Mr Smyth can taunt all he likes but the bottom line is that he knows that the government is investing and putting its money where its mouth is, and making sure that more Canberrans get access to elective surgery. Mr Smyth is the sort of shadow health minister

who takes great glee in less people getting access to services. That is the sort of shadow minister for health Mr Smyth is—"Oh, let's hope that not so many people are getting these services because I can take political advantage of it." If he were seriously interested in the public health outcomes for the people of the ACT he would be welcoming these figures wholeheartedly. But, of course, he is not.

Let us compare this last October with October 2001. We have seen 142 more operations just in the last month than in the last month that lot over there were in power. So, no matter how you look at it, we are improving the level of access to elective surgery. Mr Speaker, an additional 431 people have over the past four months accessed elective surgery compared to the same period last year. That is Labor's $2 million per annum at work—more people under Labor getting the surgery they need.

MS MacDONALD: Mr Speaker, I ask a supplementary question and I thank the minister for his answer. Is the government considering closing off access to elective surgery?

MR CORBELL: I thank Ms MacDonald for the supplementary because it does raise an important issue about equity and access. The government was surprised to learn of proposals being considered by the Liberal opposition to close off the territory's public hospital elective surgery waiting list until all patients currently waiting have been treated. This was suggested by the acting shadow minister, Mrs Burke, about two months ago. Of course, the government considers this sort of proposal to be extremely dangerous. It is dangerous because the government knows, unlike those opposite, that you have to make sure that people get access to surgery based on their priority, based on their level of clinical need.

It would appear that the Liberals are proposing an alternative course of action. It is not a course of action that the government considers appropriate. We want to make sure that people get access to elective surgery based on their clinical need. We do not want to close off the elective surgery waiting list. We do not want to deny people who have an urgent need demand for elective surgery. We do not want to be so callous as to suggest that elective surgery waiting lists should be closed because we know what sort of impact that will have on our community. If that is the only proposal the Liberal opposition can come up with they have a long way to go in terms of presenting a viable, credible alternative to the people of Canberra.

CRASH scheme

MRS BURKE: My question is to the minister for housing, Mr Wood. My question concerns recent publicity about the homelessness crisis and, specifically, the CRASH scheme. Following my media release, and after I wrote directly to the minister on 8 October 2003, the minister issued in response a media release headed "Slash public housing and say 'Let them squat': Libs", in which the minister asserted, "The New South Wales CRASH trial may have some merit … but there are questions about whether such a scheme would translate to Canberra" and "It's about time that the Liberals … stopped grasping at short term solutions."

However, in the minister's response to me of 27 October 2003, he stated that his department was investigating the CRASH model and would engage a leading researcher

in the field of homelessness, who would consult with the community sector, architects and homeless people. Minister, did you decide to investigate the CRASH model after I put out the media release and sent you the letter in early October, or was your department investigating the model before I brought it to public attention?

MR WOOD: That is a long introduction to a question. I can say emphatically that I had not heard of that scheme until it was raised locally. As to the department, it is concerned to explore all options to try to recover from the disastrous situation into which it was being led by the Liberals. The Liberals leading it down that path of disposing of public housing stock was not doing one thing to overcome the loss of upwards of 1,000 units—

Mrs Burke: That is not what I asked. I asked about the CRASH scheme. Listen!

MR SPEAKER: Order, members!

Mr Smyth: Point of order, Mr Speaker: standing order 118 (a) suggests that the minister must confine his answer to the subject of the question. The question was specifically about when his department started its investigation of the CRASH scheme. He may want to answer that.

MR WOOD: The approach of ACT Housing has changed under this administration. It is no longer under the instruction to sell off. We are maintaining the properties we have. I do not know when ACT Housing started to look at this issue. I will find out for you and I will give you an answer to that. My own view is that, if there is something of value there that may emerge. But it does not seem to me to be a proposal that will have very many legs in Canberra, which is a very different scene to that in Sydney.

MRS BURKE: The minister's answer was quite confusing, so I will ask the minister if he would outline to me when he decided to investigate the CRASH scheme: was it after I put out the media release and sent him the letter or before I brought it to public attention? Would he please let me know?

MR SPEAKER: I think the question has been fully answered.

MR WOOD: I do not know when, if and what, and I do not know the level of the investigation but, if there are any details to be discovered, I will locate them for you.

Community planning forums

MS DUNDAS: My question is to the Minister for Planning. Considering that the Belconnen LAPACs have ceased to operate and the community planning forums which, I understand, were scheduled to commence in October have not yet started and interested members of the community inquiring into the future of the CPFs are told that they will commence shortly, can you inform the Assembly of the current timetable for the commencement of the community planning forums in Belconnen?

MR CORBELL: I am currently reconsidering the appropriateness of continuing with community planning forums. The reason for that—

Mrs Dunne: I rise to a point of order, Mr Speaker. Is it an announcement of government policy if he is reconsidering his current position?

MR SPEAKER: No, it is not an announcement of government policy. Nice try, Mrs Dunne; 10 points for trying.

MR CORBELL: I am reconsidering it because of the relatively low level of interest expressed from a range of suburbs that the CPFs are proposed to cover. I am exploring a range of other options to ensure that there is effective community representation when it comes to considering planning proposals. That is something on which I hope to reach resolution shortly.

MR SPEAKER: Do you have a supplementary question, Ms Dundas?

MS DUNDAS: Yes, Mr Speaker. I would like the minister to answer the first part of the question and define what he meant by "shortly". Also, I would like to know what is going to happen to the development applications currently in train that normally would have gone to LAPACs or a community planning forum but have missed out on either process and how community input will be brought in on the current DAs.

MR CORBELL: The community, of course, continues to be involved in the full statutory process for assessing all development applications that are publicly notified and the opportunities for public comment, objection and review remain the same as they always have been under the land act. In relation to resolution of the future of community planning forums and whether alternative avenues will be pursued by the government, that is something on which I am in detailed discussions, as I have said, with the Planning and Land Authority. The bottom line is that the government has received a relatively poor level of interest being expressed in the community planning forums and I do not think that it is appropriate to continue to establish these bodies if that level of interest remains, because it just means that they will not work and we want to make sure that a community consultation process does work. We will consider other avenues to make sure that we can achieve that.

Aged care facilities

MR CORNWELL: My question is to the Minister for Health and Minister for Planning, Mr Corbell. Minister, in July you claimed that there were development proposals for 500 independent living units and 300 aged care beds. These proposals still appear to be tied up in red tape, without a brick being laid. Indeed, with the closure of Peppertree Lodge in Queanbeyan, we have lost aged care beds throughout the region. Why have you failed to cut the red tape that is holding up developments for aged care—

Mr Stanhope: Queanbeyan is in New South Wales, Greg. Ask Bob Carr about that one.

MR CORNWELL: while you seem to be willing to do so for developments in Civic West?

Mr Stanhope: That's not in New South Wales.

MR CORBELL: As the Chief Minister says, Peppertree Lodge is not an issue I have direct control over. Perhaps I will put the question in some perspective. First and foremost, Mr Cornwell is saying that there are over 500 beds. Mr Speaker, they are not all actual development applications, as he well knows from the information I provided to him when those figures were first released. They are our best understanding of a mixture of formal development applications and development proposals, which have been discussed and are being progressed with ACT planning and land authorities, and development proposals flagged by existing or new providers but not yet progressed by them.

The actual number of aged care beds that have been approved by the Commonwealth government and are yet to become operational is 145, not the 500 figure quoted by Mr Cornwell. The 145 is made up 103 high care places and 42 low care places. Those are the beds funded by the Commonwealth yet to become operational.

The government is continuing to work very closely with all proponents in progressing applications for the development of new aged care facilities. As the member will be aware, the government has approved grants of land to both the Little Company of Mary at Bruce and Sourthern Cross Homes in Garran. In addition, the government is moving to release a site on the shore of Lake Ginninderra for aged care facilities early next year, within this financial year. The government is considering additional sites at Gordon, Greenway and Nicholls for future release.

The government's processes are moving in an effective and timely way. We will always focus on ways to further improve those, but the government has identified both the demand and possible sites and is moving to expedite them.

MR CORBELL: Minister, why have you failed to open even one aged care bed during your two years in office? Are you holding these back, as a cynical election sweetener for next year?

MR CORBELL: No.

Paterson's curse

MRS DUNNE: My question is to the Minister for Environment, Mr Stanhope. Minister, at least 26 horses have died in Canberra as a result of poisoning from Paterson's curse in recent months. As at a couple of weeks ago, the Canberra Veterinary Hospital was performing approximately 80 blood tests on horses per week just to screen for the toxins contained in Paterson's curse. However, the Environment ACT website shows that Paterson's curse has not been declared a pest plant species, despite the fact that it destroys good pasture and is extremely dangerous to horses and other livestock. Minister, why have you failed to declare Paterson's curse a pest species despite the obvious harm to the environment and danger to livestock?

MR STANHOPE: I thank Mrs Dunne for the question. It certainly is a very topical issue and a serious issue, the extent to which Paterson's curse has invaded the ACT and, indeed, all areas of Victoria, New South Wales and South Australia that have been so significantly impacted by the drought. Certainly, a feature of Paterson's curse—I think it

is a feature of most weeds—is that it is very invasive, it takes the available space, it competes very aggressively with other grasses and other weeds, it is a great coloniser and it is a great survivor. I understand that a typical Paterson's curse plant will per season produce upwards of some thousands of seeds and that Paterson's curse seed survives in the ground for upwards of seven years, waiting for those opportunities to colonise and to spread in the way that we have seen this year.

Of course, over this last season we have experienced absolutely ideal conditions for Paterson's curse and for other weeds. There has been a drought, grasses have suffered significantly and Paterson's curse's major competitors have suffered very seriously and significantly as a result of drought, and of major bushfire over and above that. The circumstance is ideal for Paterson's curse, just as it is for a range of other weeds, and it has taken full advantage of that. We see the results of that. It is a part of a cycle of droughts and fires that we have experienced throughout Australia ever since Paterson's curse was, most unfortunately, introduced into Australia as a desirable cut flower. Riverina bluebell I think it was sold as generally through the nurseries. But whether Paterson's curse should be regarded as a pest plant is a—

Mrs Dunne: I raise a point of order, Mr Speaker. Under standing order 118 (a), the minister should be concise. We have just been here for two minutes, having a treatise on the habits of Paterson's curse, but the minister has not got to answering the question: why has it not been declared?

MR SPEAKER: Order! That is not a point of order. Resume your seat, Mrs Dunne. The minister has five minutes in which to respond and he is able to deal with the subject matter of the question, which is Paterson's curse.

Mrs Dunne: No, the question was: why hasn't he declared it? I have not asked him about the habits of Paterson's curse.

MR STANHOPE: Well, I think it is particularly important that we understand the context in which we have had this major invasion of Paterson's curse in this season—and we certainly have; it is certainly correct. It is a major issue and a major concern for land-holders across the ACT and, indeed, across the whole of New South Wales, the whole of South Australia and the whole of Victoria. There is a general view that there has never before been such a spread of Paterson's curse across the continent as there has been this season. As I said, that was a result of a combination of drought, fire and the fact that Paterson's curse is such an invasive weed that has this enormous capacity to invade and colonise. In the absence of the many grasses with which it normally competes, it has had a significant advantage over other plants in this current season.

There is, though, a debate around the steps that the ACT government might have taken. Indeed, we have funded weed control to a far greater extent in this last six months, in the last budget and in the second appropriation bill, than has been done by any government in the ACT ever. I think it is fair to say that we have doubled funding for weed control over the last six or seven months, and much of that was designed to address issues around what we anticipated to be an emergence of weeds such as Paterson's curse, blackberry and a range of others. The government has done what it might in relation to Paterson's curse, particularly in those horse paddocks that we control.

Horses will not eat Paterson's curse if there are sufficient alternative supplies of food. I think there is an issue here for horse owners; they need to be aware of the dangers of Paterson's curse. It is generally known by all those who own animals, and certainly should be known by all horse owners, that they do need to ensure that horses have adequate supplies of foodstuffs so that they will not be attracted to Paterson's curse as the only food available to them, which is how horses treat that weed.

MR SPEAKER: Order! The minister's time has expired.

MRS DUNNE: I have a supplementary question, Mr Speaker. Minister, why is it that private lessees seem to be able to manage the problem on their land, to the extent that the boundaries between government land and private land show a distinct purple demarcation? Why is it that private leaseholders seem to be able to manage the property whereas government land in the ACT is a disgrace to land management?

MR STANHOPE: I am almost lost for words. That is the greatest load of unmitigated garbage that I have ever had presented to me as a question.

ACTION timetables

MRS CROSS: My question is to the minister for transport, Mr Corbell. Recently, there was a conference in Canberra, called "Sustainable Forum", which was looking at the future for city living. People attended from many different jurisdictions, coming from as far afield as Perth. The ACTION bus service received quite a few accolades from these people, except for a very basic and simple communication area—timetables. It seems that, if you are a visitor who is wanting to use buses, Canberra is not a good place to be. Apparently, there are no timetables at bus stops, so that casual visitors who decide to catch a bus have to rely on waiting for a long time or asking someone, if there is someone to ask, where the buses go and when. Minister, have you considered attaching timetables to bus stops, as occurs in other cities? If you have, when are you planning to do so?

MR CORBELL: I thank Mrs Cross for her question on an important matter. As far as I am aware, there is a range of bus stops round Canberra that do provide timetable information. There are, though, two issues that need to be kept in context. First of all, it is not possible to provide timetable information at every bus stop round Canberra. The other issue which it is important to stress is that I am aware that at bus stops at which timetable information is provided, it can be vandalised. On occasions that has resulted in the timetable information being removed—more like burnt and melted, actually—and sometimes it is not replaced after a repeated series of vandalism.

The government is conscious of the importance of providing increased levels of information, especially for casual users and out-of-town users of the bus service. The government is currently investigating the provision of information on timetables in new ways. The technology we are currently investigating includes real-time information whereby information is supplied via an LCD screen or some other means on when the next bus is due to arrive. That would make it convenient not only for people who are not familiar with the network and the regular run of buses but also regular users as they could be assured as to how long they would have to wait for a bus, when the next bus

would be coming and where it was currently. That is the benefit of providing real-time information. The government is seriously investigating its use in the lead-up to next year's budget.

MRS CROSS: I have a supplementary question, Mr Speaker. If the government is seriously investigating that, why is it that you said early in your response to my question that one of the issues was cost?

Mr Corbell: No, I did not say that.

MRS CROSS: And then you said that vandalism was an issue when cost was already the first issue. Will your government revisit this issue, given that it has been brought to my attention and the attention of other members of this place as a serious communication problem and something that is lacking in our transport system? Given that you are the minister for transport, since you are into sustainable transport and offering modes of transport other than the car, isn't it important that the government acts more seriously on this matter to make travel in this city a little bit easier for travellers?

MR CORBELL: Mr Speaker, as I just indicated to Mrs Cross, the government is investigating new means of providing more viable and timely information on buses servicing particular routes. If you look at the experience in many other cities around the country and around the world, real-time information, for example, tends to be provided on key routes servicing key nodes. Buses coming into or going out of Civic would be an example. Equally, town centres, group centres and otherwise would be potential locations for real-time information and improved timetable provision.

It is worth making the point that the ACTION network is fully downloadable and accessible from a web site. The government also takes the step of providing all householders with an updated map and timetable where there are timetable introductions or changes. For example, the new network I announced last week, which will commence on 24 November, involved the government and the ACTION Authority letterboxing every house in the suburbs affected by the timetable changes with a copy of the new timetable. It is not just about existing bus users; it is also about attracting new bus users. The government's focus is on information provision for both people visiting Canberra and the residents of Canberra.

Annual reports

MS TUCKER: My question is to the Chief Minister and is about the accessibility of annual reports, specifically on the government website. Minister, as you know, the government has committed to accessibility guidelines for its web content, recognising that this can be an important means of communication with the community. The guidelines state:

> All ACT Government websites should follow a user-centric structure. Information should be organised in a manner meaningful to user. The user should not be required to have an understanding of the internal structure of government in order to find the information or service they require.

Recently, large numbers of annual reports have been released. However, these are not all available on the web. When we search the government website for annual reports 2002-03 the search returns only a few annual reports—the Department of Education, Youth and Family Services; Treasury; Flora and Fauna Committee; and the Chief Minister's Department.

Not only that, these annual reports are only available as PDFs. There are no alternatives for Word, text or RTF; nor is there an easy reference to how to get paper copies. Particularly of concern is that screen readers which turn text into audio for people who cannot see the screen usually cannot read PDF because it is a picture, not individual words.

My question is: why is there no easily accessible list and links to all ACT government annual reports and why are they not available in non-PDF format for people who are vision impaired or blind?

MR STANHOPE: I thank Ms Tucker for the question. I regret, Ms Tucker, I don't have a ready answer for you.

I think you raised some very serious questions and issues around annual reports and annual report availability. I will certainly pursue each of the issues you raised. I regret I don't know the answer to any of the questions you asked, other than to acknowledge that the issues around accessibility, access and readability of annual reports are fundamentally important issues, certainly to accountability and information available to the community. I will chase up each of those issues individually and specifically.

MR SPEAKER: Supplementary question?

MS TUCKER: Thank you. Also, could you get back to the Assembly with the results of the periodic audits that are to be conducted by ACTIM and of the annual reviews of policies and guidelines since November 2001?

MR STANHOPE: I am more than happy to take that on notice and supply the information, Mr Speaker.

Hall Primary School

MR PRATT: My question is to the minister for education, Ms Gallagher. My office has recently received correspondence about the inadequate school hall facilities at Hall Primary School. The school currently uses a transportable classroom to hold the enrolled 160 children and numerous teachers as a makeshift school hall. The children are unable to do gross motor skill exercises or indoor gymnastics in the hall they have.

The school has put forward requests for new facilities in the past but has not had a positive outcome. What is your department doing about the obviously inadequate facilities that children attending Hall Primary School have to endure?

MS GALLAGHER: I thank Mr Pratt for the question. It is great. I have been sitting here week in, week out since the beginning of August waiting for a question from the

shadow minister, so I am very pleased to get one on this important portfolio. That makes No 9 for my ministry, Mr Pratt. I should add that it is very nice to get a question about the facilities of public education, considering there have been hours of debate about the facilities and the tragic demise of the interest subsidy scheme that has been building air-conditioned drama centres at Boys Grammar.

I am pleased to see that your focus has shifted back to the real issues in school infrastructure. This year the department is undertaking a feasibility study into school halls in relation to a number of schools. Hall is one of them, and Belconnen and Melrose High are others. There are a number of schools around Canberra that were not built with a separate gymnasium and a hall, and that has put some pressure on those schools. That feasibility study has been going on this year, and the results of it will help determine the capital works program in next year's budget.

MR PRATT: I have a supplementary question. Minister, will you ensure that the kids at Hall Primary School have access to the same level of hall and sporting facilities as the kids attending similar sized primary schools have?

MS GALLAGHER: That it is the reason for the study into this. There is a problem when a school is built with a level of facilities that is different from another school's, and it is not exclusive to the school you are talking about. There are a range of issues that need to be looked at, such as the demographic and the projected populations of those schools, and, in expanding facilities, the land that is available to do that.

There is a range of things that need to be taken into consideration, and they are being taken into consideration. We are doing the work so that it informs the decisions we take in relation to the capital works program for all government schools. That will be considered in next year's budget.

Health—bulk-billing

MR STEFANIAK: My question is to the Minister for Health. Minister, I refer to your media release of 5 March, which said:

> The fall in bulk billing GPs has resulted in an increase in demand for GP-type services at our hospital emergency departments. Attendances for patients with less urgent conditions at ACT emergency departments has grown by 15% (over the period for which data are available, 1998-99 to 2001-02).

On the weekend, you ran a publicly funded advertisement recruiting GPs in the national press, which stated:

> Canberra also offers high rates of private billing in a broad range of highly professional, accredited and fully computerised practices.

The advertisement did not mention bulk-billing at all. Minister, why are you spending public money encouraging doctors to come to Canberra to operate private billing practices when you claim that lack of bulk-billing is causing the crisis in our hospital emergency departments?

MR CORBELL: It is because we want more doctors. I know that that is a difficult concept for the opposition to understand, but we want and need more doctors in Canberra. For the first time in a long time, the government is taking steps to get those doctors to come to Canberra.

What Mr Stefaniak should understand is that we have to present Canberra in a light that makes it attractive to GPs, so they will come to Canberra. Because of the federal government's policies on bulk-billing, or lack thereof, quite frankly, highlighting bulk-billing would not act as an incentive that would attract doctors to Canberra. You ask any doctor what they think about bulk-billing and they will tell you that it does not meet their costs, so why would you highlight bulk-billing when you are trying to attract GPs to Canberra.

Bulk-billing will only be addressed through effective federal reform of Medicare. What we have seen announced by the federal government in the last little while is nothing more than a policy which is designed to make Canberrans and all Australians pay more for primary health care from their GPs. It will mean more Canberrans paying more often to access their doctors.

The government's focus is on advertising to attract GPs to Canberra. We have been successful, through the negotiations on the Australian health care agreements, in getting significants parts of the ACT—Belconnen, Gungahlin, Weston Creek-Stromlo and Tuggeranong—designated as outer metropolitan for the purposes of the federal government's incentives program. This gives doctors incentive payments to relocate to Canberra.

Now, in conjunction with the Division of General Practice and the AMA, we are advertising nationally to let doctors know that we have these incentives and that we want them to come to Canberra. We want them to consider Canberra a great place to live, a great place to work and a great place to provide a doctor's practice. We need that because, over the past seven or eight years, we have seen a massive decline in the number of GPs in our city.

What did the previous government do to deliver a solution? It did nothing. It did not focus on primary care, it did not raise issues about access to GPs, it provided no particular policy strategy to address the decline in general practitioner services or to address the decline in bulk-billing. However, we are responding to this fundamental need so, just recently, we have advertised in the *Australian* and we will also be advertising in two key medical journals, the *Medical Observer* and one other, which are read by thousands of doctors around the country. The purpose of that is to ensure that doctors know about the incentives program, and know that they can come to Canberra and that they should consider it if they are looking at relocating their practices.

That is why we are doing it: we want more doctors, Mr Stefaniak. I would have thought you would want the same.

MR STEFANIAK: Minister, won't you make the problems with bulk-billing worse if you encourage doctors who do not bulk-bill to set up practices in Canberra?

MR CORBELL: Doctors who operate in Canberra are increasingly not bulk-billing and that is a function of federal government policy. Remember what the federal government's last announcement was? It was that doctors who lived in Canberra would get an extra dollar if they bulk-billed. The federal government was laughed at by the AMA, by the divisions, by doctors and by the broader community, because it did nothing to address access to bulk-billing.

The most recent announcement, made yesterday, does not do that either. In fact, while John Howard talks about a safety net for people, guess what you have to do to be eligible for the safety net? You have to spend $500, so you have to pay for the safety net. That is the sort of safety net that John Howard is delivering, one that you have to pay for and access before you can take advantage of it.

In addition to that, it means that more doctors will be charging more. The assumption will now grow that everything is all right and so we risk seeing doctors' fees rise even further. That is the consequence of the federal government's so-called reforms, its so-called Medicare plus—Medicare minus, as it has been more rightly named. Those are the issues that can only be addressed through a fundamental rethink of Medicare at a national level.

However, the ACT government is doing its bit to improve access to primary care. We are working in partnership with the Commonwealth on access to after-hours GP services. We are working in partnership with the Commonwealth when it comes to access to doctors' incentive programs, encouraging doctors to relocate to Canberra. We are being proactive and pragmatic in addressing this issue of key concern to the Canberra community. I am yet to hear anything from the Liberal Party about what they think should be done to improve access to GP services in Canberra.

Stamp duty

MR HARGREAVES: Mr Speaker, my question is to the Treasurer. The Treasurer would be aware of recent statements made by Mr Smyth regarding the level of stamp duty in the ACT. There have been suggestions that the government should reduce the level of duty applied. What would be the impact of such a reduction?

MR QUINLAN: I thank Mr Hargreaves for the question. In a press release of 11 November Mr Smyth observed "a substantial increase in conveyancing duty revenue", laid the responsibility for that at the feet of government and, by implication, called for a substantial decrease in the revenue stream. He stated that a "restructuring of duty formula would go a long way to alleviating stress on home buyers struggling in a volatile market".

Mr Speaker, let us look at the Smyth thesis that the government is to blame. Well we will take credit for the fact that we have an active economy and an active housing market. However, the thesis of Mr Smyth is typically sloppy. It did not in fact recognise the difference between value of homes and the volume of homes involved in the churn in the market. It is typically sloppy in that it did not recognise the physical change in the median house; it did not recognise that in an improved market the expectations of the

size of and the accoutrements in a house might change. He is suggesting a substantial decrease by shifting the thresholds. Typically he did not say by how much. He did not recognise, I do not think, that the housing market may soften, and should it soften then revenue would decrease anyway.

But the major flaw in the Smyth thesis, repeated I have to say a number of times in recent months, is the assumption that overall costs are the determinant of house prices. That ignores market forces. That ignores supply and demand. I think they are in lesson 1 in economics 1.01—supply curve, demand curve, price point.

If you do not believe that, if you think somehow cost influences the price of housing these days, just look at the first home owners grant where people were given $7,000 and $14,000. Where did that go? As I have said in this place before, that went onto the price of housing; that went to the sellers. Should that not be some indication to Mr Smyth, who would be Treasurer, that maybe it is the market that is determining the price of houses and not the cost structure?

So what comes out of this debate? I will tell you what comes out of it. Mr Smyth got his name in the paper and in the electronic media, and I suppose that was the primary objective—we have descended a little in standards in recent times. But it also exposes Mr Smyth's shallow thinking. In government, Mr Smyth would set long-term objectives, long-term expenditure levels, based on the good times. This territory cannot afford that sort of shallow thinking. The territory cannot afford commitments for immediate gain, immediate exposure, without any thought to the long-term impacts. That thinking is dangerous.

This government will keep an eye out for revenue streams, their fairness, how they are applied and the actual reasons for their movement through time. We will not be involved in the shallow thinking of the Brendan Smyth variety.

MR HARGREAVES: Mr Speaker, I ask a supplementary question. Treasurer, is there any assessment of the impact of Mr Smyth's proposal on the budget bottom line?

MR QUINLAN: Thank you, Mr Hargreaves. As I said in the answer to the original question, it is a bit difficult to do so because Mr Smyth was typically non-specific. He is just gunna do something. But if you moved thresholds by $100,000 you could have—it would depend on how you do it—maybe $25 million; maybe $50 million if you moved the thresholds even more.

The word "substantial" was used a couple of times in Mr Smyth's press release, so I am assuming that he wants to make some substantial change. So, Mr Smyth, I will put you down for $50 million. Let me advise you that the recording of that on the spendometer has commenced. We have got a few other items like the Convention Bureau funding of $200,000 and tourism of $12 million. Mr Pratt was out in public saying that he was going to increase the number police officers, dogs and horses. I think that was out of future economic growth, so we have not costed that one yet.

While you were not looking, while you were on the honeymoon, Bill spent $8 million on the dragway. So, Mr Smyth, just to keep you up to date, in your first year, not counting Mr Pratt's commitment, you are over $70 million. But we will be counting.

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

Supplementary answer to question without notice
Canberra Hospital—angiogram waiting list

MR CORBELL: Mr Speaker, in question time yesterday, Mrs Cross asked me a question regarding waiting times for angiograms done at the imaging section of the Canberra Hospital over the last six months. She also asked me how patients are placed in the surgery waiting lists either before or after these angiograms have been undertaken.

The answer to the member's question is that coronary angiograms are conducted in the cardiac catheterisation suite by cardiologists. Cardiac catheterisations are conducted within clinically appropriate treatment times. Non-coronary angiograms are performed in the medical imaging department for vascular procedures, renal procedures and neurosurgical referrals. Renal and neurosurgical procedures are usually clinically urgent cases and these patients are treated within a short timeframe.

The waiting time is six months for booked vascular procedures because of the physical and human resources required. Clinically urgent patients are given priority and may be allocated a procedure time ahead of booked patients. Over the last six months, the medical imaging department has performed 1,510 angiograms. Patients are placed on the surgical waiting list if their angiograms reveal that they require surgery.

In relation to delays in performing non-cardiac angiograms, there are only two radiologists, one part-time and one full-time, at TCH performing these procedures. Highly skilled clinicians perform angiograms and it is not a procedure performed by all radiologists. Delays have resulted from increased numbers of urgent patients admitted to the hospital and an increased number of patients placed on the waiting list through the middle of this year. There is a worldwide shortage of specialists with the skills necessary to perform these procedures.

To address the issue, the following steps are being taken: 30 patients are having this procedure performed at the National Capital Private Hospital between now and the end of this year to reduce the waiting times. Vascular surgeons are triaging patients even more closely so that those who can be treated elsewhere are being treated in the private sector.

Where clinically appropriate, patients are having the less invasive CT angiograms as an assessment procedure. A part-time interventional radiologist is coming from Sydney for two days a fortnight to reduce the waiting list and more patients are being processed through the system with increased efficiencies. In October, the number of procedures performed increased by 19 per cent over the same time last year.

Crimes Amendment Bill 2003

Debate resumed.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services and Minister for Arts and

Heritage) (3.30): Obviously, I support the government's position. The measures proposed by Mr Cornwell are quite inappropriate. As with the government, I thoroughly disapprove of graffiti. It is not compatible with the image of Canberra that we all want. I am very disappointed that the game of tagging that is played disfigures our city so badly.

The government has a range of programs to counter that and manage graffiti. We provide funding of $200,000 a year to government contractors for the removal of that blight, and we do so for both private and leasehold properties. Funding of $825,000 has been allocated for the graffiti youth employment program to continue the removal of graffiti from public assets and to provide part-time work and skills training for young unemployed Canberrans. The government provides a graffiti hotline to which members of the public can report incidents. The graffiti is removed within 24 hours if it is offensive and three working days in other areas. Members can see that graffiti costs this territory a lot of money.

There have been legislative measures. In 1995, the Crimes Act was amended to insert provisions relating to damage under $1,000, with a maximum penalty of 50 penalty units or six months imprisonment. The option of diversionary conferencing was introduced to reduce costs and the levels of criminal prosecution, a path we do not want to go down.

Let me distinguish between graffiti and street art, so-called. Over 400 sites on public assets, significantly underpasses, have been identified as suitable for legal street art in Canberra. Criteria and procedures have been developed for the promotion of legal works and 56 sites have so far been utilised for street art under this scheme.

A new graffiti management strategy is just about to be finalised. It is based on a whole-of-government approach to address graffiti vandalism. The strategy will have five main elements which seek to strike a balance between prevention, removal, diversion, community awareness, education and legislation.

The major non-regulatory elements of the draft graffiti management strategy are graffiti education, a community awareness campaign and development of a media campaign to promote positive approaches to management. This emphasis on education is designed to provide incentives for the community in general, including retailers, to change from being passive victims of graffiti to becoming active participants in combating graffiti in their communities.

The draft graffiti management strategy includes a new voluntary code of practice as a cost-effective management tool in restricting the sale of graffiti by major retailers. In South Australia, a voluntary code of conduct has been supported by the retail industry generally.

Mr Cornwell's bill aims to reduce the incidence by prohibiting the sale of spray paint cans to a person under 18 years of age. However, instead of addressing the issue of illegal graffiti, Mr Cornwell's bill seems to transfer the full responsibility to small business and, as such, is discriminatory in its application. That is especially the case because of the fairly heavy impact described by Mr Stanhope. The bill penalises consumers who use the paint legitimately and the retailers who sell the paint.

For regulation to be the most efficient solution to a problem, it must yield benefits greater than the cost it imposes. The question in this case is whether there is sufficient evidence to justify the severe regulatory action, given the impact of the regulation on the salesperson and the retailer. The government's answer to that is no.

It is also likely that the regulation will target the salesperson and the small business retailer but would have little impact on the large corporations. These organisation would have no problems accessing the defence provision provided for the employer under proposed section 384A (6) that they had no knowledge of the sale. It would be harder for the small retailer to adopt this argument. Such impositions on retailers and small businesses might be considered if there were clear evidence that these measures would be totally effective, but there is no such evidence.

I strongly support the government's stance on this measure and the measures it is taking. I do believe that we must vigorously defend our city, but the bill as proposed by Mr Cornwell simply is not an answer to the problem. It is much too heavy in any event. The government will continue to pursue a more sensible and more comprehensive approach to this important issue.

MR PRATT (3.37): I rise to support Mr Cornwell's bill. I would like to make a couple of comments on remarks made during the debate before lunch. I would point out that this legislation would not deny the use of spray cans to young people involved in VET and other training and educational activities. Ms Dundas raised that as a major issue and stated that the opposition would deny such legal use. That is rubbish. This legislation is not aimed at denying young kids involved in legally artistic activities to use spray cans or markers under supervision, so that is not an issue.

I would say to Ms Dundas that I did view the legal graffiti exercise a couple of weeks ago at the recently refurbished Belconnen Youth Centre. You were there as well, Mr Speaker. This youth centre is making a great contribution to youth affairs and management in Canberra. I marvelled at the artistic exercise on display outside and I would not, nor would the opposition, wish to impede such legal practice. The inference in her speech this morning that I and the opposition aim to deny legal graffiti and other artistic and technical training programs for the young through Mr Cornwell's legislation was fatuous nonsense. I would say ditto to Ms Tucker, who supported Ms Dundas on that. That was just misinformation.

Concern about graffiti is regularly raised with MLAs. I had a constituent advise me that on a bus trip from Woden to Tuggeranong kilometres of graffiti were noted along suburban back fences and across the back fences and barricades of shopping centres. People do not find that particularly pleasing and their artistic appreciation is not turned on by observing those types of displays. They feel a sense of anguish that our community has come to this. The impression that I am getting from listening to the debate here today is that the government looks upon that concern fairly lightly and does not take it seriously.

Mr Speaker, I will put on my shadow police and youth hats for a moment to respond to Mr Stanhope's comments this morning about the modus operandi of the opposition. Mr Stanhope, we support interventionist and diversionary social programs to target youth

at risk, the very kids who also undertake vandalism. I might add that they are not the only children who undertake vandalism. Lots of well-off children undertake vandalism. But in terms of youth at risk, we support such programs. Mr Cornwell's legislation does not seek to impede or deny targeted youth at risk programs.

Mr Stanhope is typically introducing a red herring and misrepresenting the facts when he accuses the opposition of making, through Mr Cornwell's legislation, a so-called draconian attack on all young people. That claim is offensive and divisive, but it is pretty typical of the sorts of attacks that we are now used to seeing the Chief Minister launch in the name of social justice.

This legislation protects the community. It complements a range of government strategies which aim to protect the community, educate the community and compassionately intervene to help those youth in danger of taking a pathway to vandalism and then crime. Mr Stanhope's assertion that the opposition ignores interventionist programs with youth at risk and that the opposition concentrates on so-called draconian strategies is erroneous and gratuitous. Mr Stanhope needs to recognise that compassionately intervening to help youth at risk as a social and crime preventative measure is laudable. We support that and we will do that when we get into government.

In addition, Mr Stanhope needs to recognise that his government has a responsibility to protect the community concurrently with pursuing social justice issues and intervening where needed to help youths who look to be going down a pathway to vandalism or crime, otherwise the community is going to accuse him of being soft on crime as well.

MR CORNWELL (3.43), in reply: Here we are, 11 months away from an election, and Labor, the Greens and the Democrats are already fighting over the vandal vote. Well, well, well! We should be in for an interesting 11 months.

Let me begin with Mr Stanhope, who opened the debate on this bill. There was a good deal of throwing around of legal weasel words, but what I found rather offensive was that the Attorney-General was attacking his own parliamentary counsel for the way that this legislation had been drawn up, because it was to the parliamentary counsel that I addressed a letter on 25 August in which I referred to the New South Wales legislation and said, in part, that I would like to introduce the same legislation or similar legislation in the ACT. Subsequently, I received an email with a draft of the bill attached and a statement that the bill gives effect to the policy of the New South Wales legislation, but differs in some respects to comply with the criminal code. My colleague Mr Stefaniak would understand that far more than I, but it seems a bit unreasonable that I should be attacked, or we should be attacked, simply because the parliamentary counsel were trying to follow the rules, the regulations and the law in the ACT. I would suggest that that is probably a very sensible idea. That was the advice that I got and, of course, that I followed.

It is interesting that Mr Stanhope, as Chief Minister, went on to say that legislation will not work. That is strange, because it works in the Labor state of New South Wales. If this legislation does not work—

Mr Stanhope: It doesn't work at all, Greg. Where is your evidence that it works?

MR CORNWELL: Just a moment. If legislation is not going to work in relation to the sale of spray cans to under-18s, how does legislation work in relation to the sale of cigarettes to under-18s and how does legislation work in relation to the sale of alcohol to under 18s? If one piece of legislation is not going to work, presumably all other restrictive legislation is not going to work either. Does that not make sense? Mr Stanhope went on to say that it would only make matters worse. Does it only makes matters worse in relation to legislation concerning drink driving, drink spiking—

Mr Stefaniak: Murder.

MR CORNWELL: Yes, murder. Thank you, Mr Stefaniak. That is a nonsense argument. I would suggest to you that there is more chance of making matters worse by rejecting this legislation, because to do so would be to send a green light—that is very appropriate, a green light; also a Democrat light and a Labor light—to these vandals that this government and its fellow travellers down there on the crossbench, the Greens and the Democrats, do not care. So we will have a repeat of the Ainslie shops example. We will have a repeat of the example concerning the person travelling on the bus from Woden to Tuggeranong. We will have a repeat of the situation on Hindmarsh Drive between the Woden Town Centre and Weston Creek where various people, because of the bushfire threat in the past, have decided to put in colourbond fences and those fences are now in different colours from the original ones. The graffiti is there for all to see, yet the minister, Mr Wood, talks about the speed with which it is cleared up. I will talk about that later

Ms Tucker joined us with another long-winded homily and vague talk about engaging youth in various activities, apparently to correct any mistakes or any risks that they may run of going off the track. She also attempted to distort my comments about graffiti. Certainly, I attacked tagging of private and public property, but I did not attack street art. I see nothing wrong with some of the bus shelters and such like that have been quite attractively painted by various people, but I do not accept the mindless tagging that goes on.

She also suggested that my bill would not eliminate the scourge of graffiti. I never suggested that. I said that it would minimise the problem. Presumably, in their quest for a brave new world, the Greens are quite happy to have thousands of dollars worth of damage done to the public and private sector. They are prepared to allow, as Mr Wood has said, over $1 million to be allocated to address this scourge. They are even, I would suggest, prepared to have the $14.5 million we spend on tourism threatened. After all, you cannot have people going around putting graffiti on tourist buses. I wrote about that incident to Mr Quinlan. I have to say that I did not get much satisfaction. He gave me a homily about how important tourism is to the Canberra community and said that it was also his understanding that police carried out a thorough investigation of the matter. Thank you!

Ms Tucker referred to the efforts of the Warringah council to address graffiti. I found that interesting, but I wonder how Bankstown, Mount Druitt and some of the other places in the western suburbs of Sydney are getting on, whether they have the same resources and the same opportunity. Ms Tucker did not elaborate on that.

Then we come to Ms Dundas, who spoke about the panel beaters under 18 years of age who would not be able to get access to spray cans and the artists under 18 years of age who would not able to get access to spray cans. These problems exist just as much in New South Wales. I would imagine, in any event, that panel beaters who are under 18 years of age would be apprentices and their companies would have the spray cans and such like available. Those things are probably bought in bulk. I would also suggest that they would not be in small cans. Operations that are involved in panel beating probably have much larger receptacles for this sort of thing.

Apart from the people who need the spray cans and therefore get them, you have to ask yourself why people have spray cans. The only other reason is that they are using them for home maintenance or something of that nature. Otherwise, I am afraid, they are probably being used for the wrong purpose. Ms Dundas also mentioned the aerosol industry and their attitude. I wonder whether she would have applied the same argument in relation to the plastics industry and plastic bags? I think not.

Mr Wood did not sound very convincing, but at least he did attempt to put things into some perspective. He was kind enough to refer to this legislation as inappropriate, which was probably an understatement compared with what the other critics had said, but never mind. He quoted how much graffiti was costing us. I have to say, Mr Wood, that for over $1 million you have not had much success in controlling it here. It is all very well to talk about conferencing, education and such like, which is one aspect of it, but you also need some legislation to control it and some penalties, if you like, to make people aware that they will be punished if they insist on carrying out this form of vandalism.

However, Mr Wood left me speechless by talking about and building up a voluntary code of conduct, so much so that I found it difficult to understand at first what he was referring to, after the Chief Minister had been telling me that a mandatory requirement simply would not work. If you are not going to have a law, how on earth can you rely on a voluntary code to have the same effect? I am at a loss to understand the argument. That is why I found some of Mr Wood's arguments rather unconvincing. If, as the Chief Minister says, a mandatory law will not work, how on earth could a voluntary law do so?

I do not believe that this provision is discriminatory for small business, Mr Wood. I think that most small businesses are quite capable of handling themselves. After all, a man owning a hotel does not have to stand at the bar and check everybody who is being served to make sure they are not under-age. A person selling cigarettes does not have to be at the cash register making sure that everybody who buys a packet of cigarettes is not under-age. Why, therefore, should somebody selling spray cans have to stand there and make sure that everybody who buys them is not under-age? I did like Mr Wood's concluding comments about vigorously defending the city. I do not see much evidence of that.

The suggestion that I was attacking all youth is equally wrong. I have made no attack on the vast majority of well-behaved, law-abiding youth in this respect. I was disappointed that Labor, the Greens and the Democrats really had no clear suggestions as to how this problem could properly be addressed, although, to be fair, Ms Tucker suggested that there might be some sort of discussion with the offenders. I do not know that the government has done anything about that.

I will say, however, that anybody who wishes to oppose this legislation in relation to banning spray cans for under-18s as a minimalist approach to helping to stamp out this problem really does not have any pride in this city. I appreciate that this piece of legislation is going to go down. I would therefore suggest that we call on the vote, Mr Speaker, because it appears to me that it is a clear case of whether we appreciate a beautiful city or whether we are prepared to appease a small minority of social misfits. I repeat that Labor, the Democrats and the Greens obviously are fighting over the vandal vote at the next election.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 7		Noes 10	
Mrs Burke	Mr Smyth	Mr Berry	Ms MacDonald
Mr Cornwell	Mr Stefaniak	Mr Corbell	Mr Quinlan
Mrs Cross		Ms Dundas	Mr Stanhope
Mrs Dunne		Ms Gallagher	Ms Tucker
Mr Pratt		Mr Hargreaves	Mr Wood

Question so resolved in the negative.

Smoking (Prohibition in Enclosed Public Places) Bill 2003

Debate resumed from 25 June 2003, on motion by **Mrs Cross**:

> That this bill be agreed to in principle.

MR CORBELL (Minister for Health and Minister for Planning) (4.01): Mr Speaker, this bill seeks to address a public health problem which is not unique to the ACT, but about which the ACT has in the past taken a national lead, that is, the issue of providing people with protection from environmental tobacco smoke, a known cause of death and disease in non-smokers. In 1994, the ACT took a national lead by establishing non-smoking as the norm in most enclosed public places. As a result, members of the community can now go about their daily lives and participate in the life of the community without risks to their health from passive smoking. These measures have proved to be popular and well-supported and have served as a model for legislation in other Australian states and territories.

Since 1994, a lot has happened, and there is now an undeniable need to update our legislation to ensure that it is consistent with best practice and provides the highest possible standard of health protection to ACT residents, workers and visitors. We have recently seen from the results of indoor air quality testing in exempt premises undertaken by the Health Protection Service that the system of exemptions under our present legislation is not sufficient to protect patrons and workers from tobacco smoke in these premises. In short, smoke-free areas are not smoke free.

The government knew this at the time that the original exemptions regime was introduced. At the time, the Labor Party argued against the reliance on mechanical ventilation as a way of providing for smoking and non-smoking in the same premises. We have been proven right. At the last election, the government signalled its intention to address this issue. Following through on that commitment, earlier this year I released a discussion paper on ways to phase out and remove the exemption that permits smoking in certain licensed premises in the ACT. The result of that discussion paper is currently being assessed, with over 100 public submissions. Research through a regulatory impact statement was also commissioned recently by ACT Health. This research will look into the health and economic implications of phasing out exemptions. Along with this, legislative measures under consideration in other jurisdictions are being monitored.

Mr Speaker, the government's preferred position is to allow both the consideration of public comments made and research into the health and economic impacts of removing the exemptions to be completed so that the decision on this matter can be made in a considered way by the Assembly, having been informed by these comprehensive reports. For this reason, the government shortly will be seeking to adjourn the debate on this piece of legislation until early next year.

I remind members that if the debate is undertaken today the earliest that the phasing out of exemptions can occur is 1 December 2006, when the last current exemption expires. However, it may be the case that following a regulatory impact statement, the results of the public consultation process having been assessed, an even earlier phasing out date could be considered. For that reason, it is the government's preference to defer debate. However, if we proceed today, we have before us a bill which gives us the opportunity to consider the phasing out of restaurant and licensed premises exemptions. If the adjournment is not supported today, the government will support the bill in principle because it is an opportunity to signal to the community the importance with which the Assembly considers this issue.

There are certain things that we cannot ignore. We cannot ignore the plight of hospitality employees who continue to be exposed to the health risks of tobacco smoking in their workplace. We cannot ignore the advice from the National Occupational Health and Safety Commission that the only effective way to protect people in indoor environments is to eliminate smoking from the workplace. We cannot ignore the plight of children, who have no choice about the quality of the air that they breathe. We cannot ignore the findings of our own research that shows that environmental tobacco smoke is currently present in the majority of non-smoking areas in exempt premises. Nor can we ignore public opinion, which right across Australia supports stronger measures to protect non-smokers and to promote smoke-free environments. Finally, we cannot ignore legal opinion under which employers and proprietors are being held increasingly liable for illnesses related to passive smoking.

These are all compelling reasons to act. They are equally compelling reasons to make sure that when we act we get it right. That is why, in expressing in-principle support for this bill and foreshadowing the importance of adjourning debate until the regulatory impact statement and public consultation process are completed, I should also foreshadow to members an amendment, which I have already circulated, which will bring forward the phasing out date.

It is interesting to have seen the events of the last three or four hours or so. We had an announcement in the paper this morning. I had confirmation from Mrs Cross last night that it was her intention to support an amendment by the Leader of the Opposition to ensure that the phasing out took place no earlier than the end of 2008. Clearly, if members of this Assembly were genuine in their concern for the occupational health and safety of hospitality workers, delaying until 2008 the necessary protection which is provided for by the removal of exemptions is grossly unwarranted.

I want to draw to members' attention a media statement issued today by Smoke Free Australia, the alliance of the Liquor, Hospitality and Miscellaneous Workers Union, the Musicians Union of Australia, the Media, Entertainment and Arts Alliance, the ACTU, Action on Smoking and Health, the Cancer Council of Australia, the National Heart Foundation of Australia, the Australian Council on Smoking and Health, the Non-Smokers Movement of Australia and the Australian Medical Association. In the statement they said that a 2008 smoke-free pubs and clubs deadline would betray ACT workers and the public. They labelled the proposal an outrageous sell-out, a move by non-government MPs in the Legislative Assembly to delay smoke-free workplaces until 2008.

The alliance outlined that they were shocked at this development and urged all members to reconsider. They said, "A 2008 deadline would be a disaster for public health in the ACT, locking the territory into the most backward smoke-free legislation in Australia." They went on to say, "It would be better to see the current bill withdrawn altogether and to campaign instead for a realistic deadline in government legislation promised for early 2004." I understand that the Liberals now no longer propose to support a deadline of 2008, an interesting about-face in the context of the level of concern expressed by public health groups around the country and in the ACT about the proposed deadline.

I also want to draw to the attention of members reported comments of Mrs Cross which suggested that unions supported the deadline of the end of 2008 which she announced via the *Canberra Times* this morning. I should draw to the attention of members the views of the LHMWU, the Liquor, Hospitality and Miscellaneous Workers Union, which outlined that their position was not to support the end of 2008 but was instead to support a date as soon as practicable. That was their position.

For those reasons, I have circulated to members an amendment outlining that the earliest practicable date at this stage to withdraw the exemption regime is 1 December 2006. The most recent three-year exemption was granted this week and therefore will expire in three years. The end of November or beginning of December is the first practicable time in which the exemptions regime can be removed without impinging on the exemptions already granted.

I should signal to members that it may be possible to bring forward an even earlier phasing out date once the assessment of the regulatory impact statement is completed. It is for that reason that the government is advocating a proposal to adjourn debate on this matter until the regulatory impact statement is completed and available to members for their consideration.

I want to assure members that the government has not in any way sought to delay progress on this issue. I also want to say to members that if there is concern about the government's commitment to progressing this reform, I can indicate quite clearly here and now that the government intends to bring forward a legislative proposal in February next year, consequent upon the regulatory impact statement and the public consultation process, on the appropriate phasing out. If members have concern about the desirability of proceeding today, that is the commitment I can give—a rock solid, ironclad commitment. That is the reason we are proposing the adjourning of the debate. If members are not interested in adjourning the debate, we will proceed with our amendment and put it to the Assembly that the earliest possible phasing out is the end of November or beginning of December 2006.

The issue is fundamentally one of ensuring safe workplaces and I can only reiterate my surprise and concern that a position which as of 7.00 am this morning was the end of 2008 has suddenly moved forward two years to the beginning of 2007. Perhaps it is a case of some members being caught out on the issue and needing to adjust their position further. The issues I have outlined underpin the importance and the seriousness of this discussion—the need to ensure that we make considered policy decisions in relation to the removal of the exemptions regime and that we do so understanding the full impact of such a regulatory change on the hospitality industry. There is no doubt that these premises must be smoke free and they must be smoke free as soon as possible, but good law making also requires members to have regard to the impacts of their decisions before they take them. For that reason, it is appropriate that members support an adjournment of the debate on this bill today.

Motion (by **Ms MacDonald**) put:

> That the debate be adjourned.

The Assembly voted—

Ayes 8		Noes 9	
Mr Berry	Mr Quinlan	Mrs Burke	Mr Pratt
Mr Corbell	Mr Stanhope	Mr Cornwell	Mr Smyth
Ms Gallagher	Mr Wood	Mrs Cross	Mr Stefaniak
Mr Hargreaves		Ms Dundas	Ms Tucker
Ms MacDonald		Mrs Dunne	

Question so resolved in the negative.

Motion negatived.

MR SMYTH (Leader of the Opposition) (4.18): Mr Speaker, in that count we have witnessed a most cynical day and a cynical abuse by a cynical minister who is not in control of his portfolio and has given no thought at all to the directions that he is taking. Earlier today, this debate was to be adjourned and suddenly from the minister there was a December 2006 amendment, then the debate was to be adjourned, then we were debating the bill, and then the debate was to be adjourned. What does the minister stand for? What does the minister want? What policy has the minister put out on smoking in the ACT? Mr Speaker, what we are seeing is just typical of a minister who does not have a grasp of his portfolio.

Mr Corbell: Is 19 November 2008 still your position?

MR SMYTH: Our position has been quite clear. We took it to the last election. We said that smoking has to be phased out. I have told groups such as ClubsACT and the AHA that it will be phased out. What we said, though, and what we took to the electorate and will stand by is that it needs to be done fairly. It has to be done in a way that brings the entire community together, rather than dividing the community in the way that the Labor Party is doing now.

Some of the groups that we have spoken to wanted the exemption to be for 10 years, to take it out to 2013, and some of them were happy with 2010. Others, of course, wanted the phasing out to apply much earlier and there is a valid case for doing it much earlier. We followed a path that took the middle road that gave some certainty by saying, firstly, that it would end on a certain date and, secondly, that those affected had time to make arrangements to guarantee their business or club.

What do we have from the minister? The minister's certainty on this issue has lasted from his press release some time this morning, 11 or 12 o'clock this morning, until now, 20 minutes past 4, when his word, his press release, his ambition, his ideal of December 2006 has been blown out by his admission that he will go away, rethink and bring the date back. That is not fair to people. That is not fair to businesses.

MR SPEAKER: Mr Smyth, we are debating Mrs Cross's bill, you know.

MR SMYTH: We certainly are debating Mrs Cross's bill, Mr Speaker, and I can imagine why you would intercept on behalf of the minister, but nothing is going to save the minister on this one.

MR SPEAKER: No, I am not intervening on behalf of anybody. I am just reminding you to be relevant.

MR SMYTH: Mr Speaker, the issue is smoking. We are talking about the dates and the things that Mr Corbell has done today. I know that it is hard to believe that all this could happen in the course of a single day, but that is the case.

MR SPEAKER: Mr Smyth, let me lay it on the line: we are talking about a bill that has been put forward in this place and I expect you to remain relevant while the debate continues.

MR SMYTH: Mr Speaker, the bill bans smoking in public places. It provides a series of offences: that people shall not smoke in enclosed places, that they shall stop smoking if directed to do so by an authorised person and that an occupier shall not let persons smoke on their premises or provide smoking accoutrements. The bill also has an application date and we are discussing the date and the cynical way in which the minister has behaved over the last couple of days, particularly today, in what he has been saying and doing. I think that people have a right to know what the minister has been saying and doing and I will do everything I can to bring that to their attention.

At the same time, I will outline what we have said and what we have maintained, Mr Speaker. I will do that as well. That is why we decided, and we did so in agreement with the majority of members of the Assembly, to seek to find out what people thought might be a fair time. November 2008 seemed to have some currency late last week and early this week. As of this morning it had shifted. People wanted to bring it forward. We had proposed November 2007, which at one stage today also seemed to have some support, but it would now appear that, based on the minister's amendment, December 2006 will get up. It is the minister's right to propose that, but people need to know the way that this minister operates.

Mr Speaker, the bill put forward, the Smoking (Prohibition in Enclosed Public Places) Bill 2003, is a bill that effectively bans smoking in public places and is a bill that is entirely consistent with the policy of the Liberal Party. It is a bill that provides for a series of offences. Persons shall not smoke in enclosed public places. Persons shall stop smoking if directed to do so by an authorised person, that is, the occupier of the premises, an inspector or a police officer. Occupiers shall not allow persons to smoke on their premises or provide smoking accoutrements. I am not sure whether Mr Stanhope will have conniptions over the use of the strict liability for offences under the bill, as he did over the proposals in Mr Cornwell's bill, particularly when his Health Minister seems to be so much in favour of it.

The Liberal Party is very supportive of the aims of the bill. Our only problem has been with its timing, which is why I have circulated an amendment with a commencement date of 19 November 2008. That was an amendment we had drafted earlier in this week when that date seemed to have some support. I accept that it does not now. That is the nature of politics. But what has gone on with the superseding of that amendment has been some incredibly cynical horse trading by the Health Minister, who has just chucked another tantrum and gone round telling people what he wants, rather than listening, consulting and conducting himself properly.

Mr Speaker, this is a most cynical day. What we want to see is a smoke-free workplace; we have said that. There are a number of ways you can achieve that and there are a number of ways you can minimise risk to the workers. Some things are not being done by this government in terms of keeping a full complement of health inspectors and applying enforcement practices whereby they are going out and checking clubs and pubs to make sure that they are abiding by the current law. The opposition has had reports of certain establishments being raided two or three times and being found to have the smoke evacuation air-conditioning turned off and no action has been taken by the government. That is the message that this government sends out to the community. They do not care because when there are visits people receive no punishment. That shows the cynical nature of this minister and his lack of attention to this portfolio. I think people deserve to know about that.

I will leave my amendment there so that we actually have a debate over what is a fair and reasonable date. I think we need to have that debate. On the one hand, there are health considerations, and they are very important. On the other, there are issues concerning employment and workplace and the value that the club system in particular and a number of small businesses, restaurants, pubs and other places provide to the community. I think it is about getting the right balance. It is about making sure that the enforcement regime

is maintained. It is about making sure that the education goes on. It is about early interdiction with programs. It is half the cost to stop somebody from taking up smoking than to stop somebody after they have taken up the evil weed.

When we make laws we need to give people some certainty. I think Mr Corbell has shown today that there is no certainty with December 2006 because he has already said that he intends to see whether he can bring the date forward again. I wonder about how the poor person who was given approval last week for a three-year exemption will feel. What certainty will they feel they have, having just heard the minister's words that he will go away and do some more work to see if he can do it earlier.

How can you trust a minister who says, "You can have an exemption for three years, but if I can knock it off earlier I will"? What does that expose us to as a territory? What does it expose us to in terms of compensation for those businesses that have taken the minister at his word, gained the exemption, done the right thing, gone about it in the right way, only to hear today that the minister will knock off the exemptions earlier if he can?

This is the sort of activity and attitude that the minister has in his planning: he gives no-one certainty. I think people desperately want an end date. They actually want to know that so that they can plan for that date. We have had a day of shifting sand, we have had a week of shifting sand, and what they will get when this debate is over today is nothing but shifting sand from a health minister who will go away and then seek to change his own amendment.

Mr Speaker, I think people deserve certainty. I think the smoking groups need to know when the exemptions will stop; those who are against smoking need to know when they will stop. I think that is fair and appropriate. Clubs, pubs, businesses and restaurants need to know when the exemptions will stop. That is fair; that is appropriate. I think we as a community need to say together, "That's the date, that's when smoking stops, let's work towards it." But that is not what we are going to get today. We have just had the revelation from the minister that, no matter what happens today, he will be back and he will attempt to change the date again.

Mr Corbell: You're misrepresenting my position and you know it.

MR SMYTH: The minister says that I am misrepresenting his position. I know, Mr Speaker, that I should not take his interjections. He just said, "I'll go away and, if I can, I will bring forward an earlier date." Those were his words. How is that misrepresenting his position? In a day of cynical horse trading, everything obviously is on the table and everything is open go and fair slather.

Mr Speaker, the community wants some certainty. They want to know when it will end so that all the groups with their competing interests can plan for that day. What they do not want to know is what the minister has revealed today, that is, that there is no certainty in this process. I will move my amendment. I think we should have the argument. I appreciate that we will lose—that is the nature of politics—but what you will have from us is consistency and what you will have from those opposite is yet to be determined because the minister has not made up his mind.

This is an important issue. The government has been in office for two years. We have had no leadership on this issue, no constant reminder, no working with the community, because we have a minister who ignores this portfolio as he is too busy with planning. It is about time the minister dedicated a bit more time to health. He should have had a look at this bill much earlier and come to a firm position much earlier, instead of the shifting sand that we have encountered over the last week. The opposition is in favour of the bill. It is consistent with our platform. But we do argue about the end date. I think that the community deserves some consistency and some certainty.

MS TUCKER (4.29): There is no doubt that tobacco kills people, and where it does not kill them it often makes them sick. There are, however, still lawyers busy ripping up the evidence which would show that the tobacco businesses knew what they were up to all along. Tobacco is a powerful drug of addiction that is freely available around the country and we have to accept that as a society we need to look for measures to minimise the harm it causes.

The problem with all workplaces in which people smoke is that employees inescapably are poisoned in the ongoing circumstances of their work. It has been very well established, most recently by the ACT government, that there is no safe and effective way to separate smoking and non-smoking areas in any rooms and that the current regime governing air quality in public buildings does not protect hospitality workers.

Given the extraordinary hold that tobacco addiction has on many people in the community, one might imagine that there may be a way one day of setting up smoking rooms in some venues which are hermetically sealed, which do not share air with any other room or space in the building and which do not require workers to access the space in their course of employment. I am not sure. That is potentially something that could be looked at for people who have that sort of serious addiction.

However, the reality is that we do need to truly change the mindset to smoke-free workplaces and smoke-free entertainment spaces. As I said, separate, supervised or unsupervised smoking rooms for addicts to smoke in might come later if necessary. The acknowledged aim of everyone in this place is to ensure that smoke-free workplaces in the ACT become universal as quickly as possible.

The issue has been raised that removing the capacity of clubs and taverns to cater for smokers indoors will send them broke. That seems to be based on the presumption that if you cannot smoke and drink indoors at one club or tavern then you can and will in another, or perhaps that if you cannot smoke and drink inside a club or tavern you will stay at home instead. The experience of places such as New York, which is a much colder city than Canberra and so more biased towards indoor activities, is that people adjust quite quickly. The outcome over time is really more likely to be a return to that great Australian tradition of the beer garden and considerably less passive smoking endured by hospitality employees and the social friends of smokers.

Today the debate has been mainly about when and how this scheme will come in. I do not believe it would be fair to introduce anything other than a blanket ban. If exemptions were allowed to be managed to an indefinite date then the clubs or taverns that continue

to cater for smokers would appear to have an unfair economic advantage and unfairly damage the health of their employees.

So the next question is one of timeframes. I understand the government has explained it has not yet completed its consultations and a regulatory impact statement that would, if it had the choice, inform its view on how and when the ban would be introduced. But given that the Assembly has indicated it was likely to proceed with the bill today, the minister has felt compelled to introduce an amendment that would result in a ban at the earliest possible date when the existing exemptions expire in three years.

I listened to the argument from the minister. I must say that that argument is slightly curious because we seem to be being told—I do not want to misrepresent the Minister; obviously he is able to clarify his position if I have misunderstood—that, firstly, he supports the fact that we must have smoke-free workplaces; secondly, it must happen as quickly as possible; thirdly, he is undertaking a process which he says requires that we therefore do not support Mrs Cross's legislation that is before us today; but, fourthly, he would have an earlier timeframe if we supported the legislation.

The logical response to that is we have agreement that we want to ban smoking in workplaces and we all want it to happen as quickly as possible. The minister is undertaking a process which will apparently help inform how the phasing out or the banning should occur. He apparently is saying, if I have understood correctly, that he may be able to bring this ban into place earlier than Mrs Cross's current legislation provides for.

Mrs Cross: By one month.

MS TUCKER: No, December 2006. But I thought Mr Corbell was also saying he may be even able to do it earlier, depending on the results of the consultation or the RIS. If my understanding is correct that that is the case, there is absolutely no reason that the minister cannot come back to this place if he wants to and put up a proposal to bring the ban back even more.

Mr Corbell: No, you misunderstand.

MS TUCKER: I have misunderstood. Okay, the minister can clear that up. So what we seem to have arrived at today is that we now have December 2006, which is earlier than we thought we would get. Exemptions were given out yesterday. In a practical sense, I really do not understand why the minister would have done that if he has had the understanding for so long that in fact we have to phase-out smoking.

Mr Corbell: I've got no choice Kerrie. The existing legislation requires it.

MS TUCKER: The minister says he has no choice. There is a three-year timeframe, as I understand it, and that means December is the time. So that is what we are achieving today. This is what the minister wants and it is what we all want, so I do not know what the problem is, except it appears to be potentially an ownership issue, and that is unfortunate.

From the Greens' perspective, we are interested in seeing an outcome, we are interested in seeing something decided now that will give certainty to everyone in the community in terms of what is happening. There is room for the government to bring the issue back to the Assembly if necessary. The consultations and the regulatory impact statement that the government is undertaking can still inform the process because we are not talking about doing something tomorrow—we are talking about doing something in three years. So I do not understand why the minister is saying that this information cannot be useful or used to inform the process.

MR CORBELL (Minister for Health and Minister for Planning) (4.36): Mr Speaker, I seek leave to speak again in order to clarify and correct Ms Tucker's understanding of the situation.

Leave granted.

MR CORBELL: The point I was making is this: if this bill was not debated today, it would mean that the regulatory impact statement could be completed, we would understand the full range of social and economic impacts arising from any decision to remove the exemption regime, and then the Assembly could decide on the most appropriate timing. That is why I sought the adjournment.

But because we have not chosen to adjourn the debate today, we need to make a decision on the date. The government has indicated its preferred approach if the bill is to be debated today. But it would be very difficult, having set the date, to then go back and change it next year again, and that is not what we are going to do. We are not going to change the date if this bill is passed today. If this bill is passed today, that is the date and it is not going to change.

The point I was making is that we had an opportunity if we adjourned this debate for the regulatory impact statement to be completed and then to fully understand whether it was possible to remove the exemptions earlier. That is the point of that investigation.

Mrs Cross: Does it take three years to understand it?

MR CORBELL: It is called good public policy, Mrs Cross. It is called process, it is called assessing the issues in a comprehensive way.

Mr Speaker, that is the point I am seeking to make. If the Assembly decides on a date today, the government has no interest in changing it. We accept the need for certainty. We are not going to try and undermine that in any way. I was simply making the point that with an RIS underway and this bill still under consideration and not resolved today, the Assembly would be in a position to reach an informed outcome.

MS DUNDAS (4.38): Mr Speaker, the ACT Democrats are supportive of the bill before us today. The bill is about addressing passive smoking in the ACT and it recognises the fact that Canberrans have a right to conduct their social, business and work activities without being subject to the second-hand smoke of other people.

It has long been recognised that environmental tobacco smoke causes a significant health risk and can lead to respiratory disease, cancer and even death. Mrs Cross outlined in her presentation speech many of the facts relating to the health risks of passive smoking, so I will not repeat them, but I think it needs to be emphasised that this is a real health issue and we are discussing the future health outcomes of the people of Canberra. We, as representatives of our community, have a duty of care to ensure that the health of the Canberra community is protected, and that fact should not be lost in this debate.

The recent government discussion paper on smoke-free enclosed public places highlighted the overwhelming evidence that this proposal will benefit the health of consumers, workers and employers. I think all members of the Assembly agree that the introduction of smoke-free enclosed public places is necessary and inevitable in the ACT.

Numerous medical reports have shown that even the best air ventilation systems do not remove all of the toxins in environmental tobacco smoke, which continue to cause harm. There are also problems with enforcement in respect of the use of ventilation systems, which we know in Canberra are sometimes not turned on, not properly cleaned or not working correctly. The ventilation exemptions have not worked in the ACT and it is time we moved to a complete smoke-free system.

There is widespread public support for this proposal, with the vast majority of people in support of smoke-free enclosed public places. The courts are also increasingly recognising the damage caused by passive smoking to employees, with successful landmark cases where employees have won significant compensation from employers for allowing them to work in an unsafe environment. This situation cannot continue and we should not be waiting until employees develop cancer before we act to protect their health and work environments.

We also need to recognise the costs of smoking, passive or otherwise, to our public health system, which continues to be burdened with the responsibility of caring for those who have developed illnesses from environmental tobacco smoke, at a considerable cost to the taxpayer and at the expense of a better health system for all.

I would like to note that there have been issues raised about the cost of making our clubs and pubs smoke free and the impact that will have on businesses in the territory. This is one aspect of the debate. I do understand that clubs are concerned about depreciation costs and the impact on their business. However, the few clubs or pubs already in Canberra that are completely smoke free are always busy, especially, like any other pub, on a Friday or Saturday night. The people who turn up to these clubs or pubs smoke outside as opposed to inside. Everybody inside has a good time, free from passive smoke. These businesses are not about to shut down. So I think that even though there may be some concerns over the transition period, the majority of the public want to move to smoke-free environments. I think the majority of the public will continue to have a good time in public venues that move to being smoke free.

Ensuring that enclosed public places must be smoke free sends the important message to the community about the type of social environment we believe is healthy and safe for all

members of the community. The ACT government needs to continue to discourage Canberrans from taking up smoking and assist those who wish to quit, and this bill is one step in that direction.

It is also important to look specifically at how this measure will impact on clubs. We have had the debate again and again about gambling addiction and the impact of poker machines in the ACT. Removing smoking from the same venues as poker machines will have a great health impact on those people who have dual addictions—that of gambling and smoking. It would mean that they will have to go outside to have their cigarette and move away from poker machines.

Today debate on the starting point of what we all agree needs to happen has been bogged down. The issue of the date at which exemptions will no longer be valid is one of the points that we debated around the corridors this morning. I have to say that the process of reaching agreement on the arrangements in this bill has degenerated into high farce.

I feel that things would have been quicker, simpler and more effective if all members, including the minister, had been willing to sit down and objectively discuss the method and timeframe for ending exemptions. Rather, we have seen a piece by piece approach with conversations taking place back and forth, when really we could have just all sat down at the same time to work this through.

However, I am glad to see the minister's amendment on the table and his public announcement today that if his amendment is successful the government will support this bill, which will have an end date of December 2006. I note that this is only one month sooner than what was proposed by Mrs Cross this morning but I am keen to see smoking phased out as soon as is practicable—and the sooner the better, even if that is still only by one month.

It is important to have this debate today because exemptions are still being granted. I know that there is no flexibility for the minister to not grant exemptions if all the criteria are met. But with this bill in place and with an end date that we can all aim towards, we can look at how many exemptions are operating and we can put a check on the number of exemptions that are continuing to be granted.

If we did not have this debate today then by the time we got around to having it in February it is quite possible that the earliest possible end date of the exemptions would have blown out to the middle of 2007, possible the end of 2007, depending on the number of exemptions that would have been granted in the next three months. So I think it is important to get this piece of legislation passed, to have quite clearly on the record the Assembly's view that smoking should be prohibited in enclosed public places, and that we would like that to happen as soon as practicable.

MRS CROSS (4.45), in reply: Firstly, Mr Speaker, I would like to thank members for their support on this very important health issue. Secondly, I would like to mention that I am pleased to find that at the 11th hour this minister and the government are showing a keen interest in this bill.

I am fully aware of the dedication of some members with the respect to smoking issues; and of your history, Mr Speaker, in particular. We are all aware of the statistics and the

negative aspects of smoking, and it is wonderful that so many people have been working hard to achieve a positive outcome for the hospitality workers in particular and Canberrans in general.

One of the things that we as legislators often have to do is have the courage to make decisions that do not please some sections of the community. This is one of those cases. I know that this legislation will upset some people in our community, just as the decision in 1994 to outlaw smoking in most workplaces upset some people. However, since that decision almost a decade ago, which at the time was a landmark decision, it is now universally accepted that smokers go outside before lighting up at work. A few people still grumble about having to do that but no-one defies the law, and our workplaces are much safer for it.

However, there are still some workers we have failed to protect. This bill moves to address that situation. It also moves to protect non-smoking patrons at hotels and clubs. We do not allow smokers to light up in restaurants, shopping centres and other enclosed places, because we know and recognise the harm that passive smoking can do to others. A number of studies have shown that even when establishments have exhaust fans to remove exhaled cigarette smoke, the amount of tobacco smoke drifting into non-smoking areas is sometimes greater than in those areas where smoking is allowed. This means that people, including children out for a meal with their parents, can be subjected to the effects of tobacco smoke.

As legislators, we must make the hard decision to address this situation without delay. There is no need to have further discussions or consultations with self-interested groups. We know the dangers, we know how serious the risks are and we should be condemned if we do not act now.

I remember vividly the anguish of a constituent as he told me how his father had to have a laryngectomy to combat throat cancer. He had never smoked a cigarette in his life. The cancer was caused by passive smoking. The operation means he can no longer speak without the aid of a mechanical device that makes him sound like a robot. Consequently he feels like a social outcast. Despite being a friendly, outgoing man, he now has difficulty socialising as he finds it difficult to be heard except in the quietest of places.

He no longer helps out with his grandchildren's sporting teams to avoid the embarrassment to himself and to his grandchildren when others, including adults, make fun of his voice. He can no longer take part in his favourite pastime, swimming, as he would drown if water went down the hole in his throat. I could go on about the difficulties this poor man and others like him have to endure but I am sure many of us know of similar cases, and if we do not act now these cases will continue to occur. I do not think any of us want that on our conscience when it can so easily be avoided.

I noticed with interest the government's own comments in the *Canberra Times* last week stating that more than 220 Australians are killed each year by passive smoke. One hundred and three of those are children under the age of 15—children! This is totally unacceptable and anything we can do to reduce that figure must be done immediately. This bill at least goes some of the way to doing that.

Some concern has been expressed that banning smoking totally in hotels and clubs will result in a reduction of trade in those institutions. We might consider recent studies in California where smoking was banned in drinking establishments four years ago. Those studies found that trade had actually increased rather than decreased, as families and non-smokers began to come back to the smoke-free environments after having been scared off in the past. I also noticed recent media stories about a club that banned smoking despite nine of its 12 board members being smokers. The club was almost broke before the ban but is now trading profitably after non-smokers returned in droves.

We are not on our own in legislating for smoke-free enclosed public places. In fact, while we were leading the nation and the world in 1994, thanks in part to you, Mr Speaker, in banning smoking from most workplaces, other jurisdictions have caught up and are moving quickly to overall smoke-free enclosed public places.

There are bills on the table in New Zealand and recommendations in South Australia and Tasmania. In Ireland, where smoking and drinking at the local go hand in hand, they have passed a bill which will be enforced next year. The United States already has around 400 cities and towns where smoking is banned, including New York, as mentioned earlier by my colleague, Ms Tucker. What we are seeing is the recognition of the need to act and not just talk about smoking and the damage it does to the community.

I have an amendment that allows for problems of phasing in this legislation and expiration of the exemptions in place. I am also aware that Mr Smyth and Mr Corbell have amendments to this amendment. My amendment accommodates both the need to allow the exemptions which have already been granted to run their course without penalty and the need to allow the various clubs and hotels time to adjust their public spaces.

Over the past few months I have had many discussions with the key stakeholders—the clubs and hotels, the AMA, the Division of General Practice and members of the Assembly—to achieve what I hope will be a good piece of legislation. These discussions, in fact, have gone on for the most part of this year. My amendment is a result of these discussions and it will help to achieve what the legislation should be—a step forward in harm minimisation to achieve better health outcomes for Canberrans, in particular the workers in pubs and clubs and the visitors to those organisations who are not smokers.

The bill provides for a phase in of 12 months, and I stress this because I found it rather intriguing that the minister wasted no time this morning in sending out an interesting excuse for a press release stating that my bill was otherwise. But those who have actually read the bill would have noticed that the initial phase in period was 12 months. If we as legislators wanted to do what we have personally believed all the time should be done we would want to ban it tomorrow. We would want to do so because nobody in this place, no matter what side of the fence they are on, wants to see the public harmed by smoking or passive smoking.

I have spoken to the clubs industry and the medical profession. Nobody in the clubs industry is interested in harming the community. They are not interested in harming or killing children. At the end of the day they have an interest in looking out for their

businesses, their members, their clubs. They are not interested in deliberately causing harm to anybody. I think all the members in this place agree with the fact that we all want to ban smoking.

Mr Speaker, this has been an interesting experience for me as a relatively new member—unlike you, the wise one of this Assembly. I have had to sit down with people on a number of occasions to try to work out a conciliatory approach—an approach that is good for the health of Canberra, an approach that is good for the medical profession, the clubs, the hotels, the pubs, the general community. And I will tell you what: you are damned if you do and damned if you don't. On top of that, we have public servants who are trying to do their job, the poor buggers. I really admire them because having to answer to a minister in the way he wants things to go is really difficult.

At the same time, I do not believe this minister wants to see any of the people in this city harmed—not at all. In fact, I commend Ms MacDonald for her position on this. I was not here when she put her motion forward last year. I was ill at that stage, so I was not aware of the motion until very recently. I have always admired your position and stance on non-smoking, Ms MacDonald. But I must say that the minister misrepresented me, and this excuse for a press release is quite naughty. It is like a petulant schoolboy sulking when he does not get his way.

As I said, the bill provides for a phase in of 12 months. However, because of the reasons I mentioned, I agree that this is not an appropriate timeframe. My amendment will allow all stakeholders time to adjust yet will provide an absolute cut-off time to give Canberrans smoke-free enclosed public places. It is important to have a demonstrative cut-off date so that we do not have a staggered finishing time for different clubs. A distinct cut-off date will make it easier to publicise the event and for hotel and club patrons to be aware of when they can no longer light up in these establishments.

I should stress at this point that, as I said earlier, when I first had this bill drafted earlier this year my intention was to ban smoking within 12 months of the bill being passed. However, extensive consultations with stakeholders indicated to me that this timeline would be wonderful for workers but, of course, difficult for others.

There is also politics, which is about numbers, as we know, and the practical reality of getting bills passed. Often we must compromise, but hopefully not too much in this case as we are talking about the health and welfare of a large number of workers in the ACT. My amendment means a delay in respect of total smoke-free areas but it is a manageable delay. I am aware that to delay the deadline means that more people will be exposed to more smoke. However, I also believe that it is the best solution available in order to address what the world now knows is a serious health issue.

I am rather dismayed, Mr Speaker, that in my many attempts to try to find consensus with everybody the most cooperative people in this place were in the opposition, the Democrats and the Greens. The government, who tabled the discussion paper on this issue and even had a motion put forward to the Assembly last year, did not have any bill—it was in the ether.

Mr Corbell: When did you approach me? That's just a lie. It's an outrageous lie.

MR SPEAKER: Order, Mr Corbell!

MRS CROSS: Mr Speaker, I am pleased to see finally that the minister is amending my amendment by one month, probably because it's Christmas and he wants to say that this is the Christmas present for Canberra. Unfortunately, in his press release, as I said earlier today, he refers to 2008, which in fact is incorrect. He should have checked the facts as my amendment clearly stated 1 January 2007—2007.

Mr Corbell: You told me yesterday 2008. Anything else is a lie.

MR SPEAKER: Order, Mr Corbell!

MRS CROSS: I ask the minister to withdraw that, Mr Speaker.

MR SPEAKER: I didn't hear it. What was it?

MRS CROSS: He called me a liar.

MR SPEAKER: Withdraw it, Mr Corbell.

Mr Corbell: I didn't. I said it was a lie, and I withdraw the comment.

MR SPEAKER: Thank you. Please maintain order. Mrs Cross has the floor.

MRS CROSS: Thank you, Mr Speaker. Mr Speaker, as I said, the minister's amendment moves my amendment by one month. I sincerely hope that this is not a cynical political exercise and that the government will support the bill as a whole and not vote it down in pure spite. This is something for the greater good of the community and we should be working together for this and not bunkering down in party politics to win points.

May I say, Mr Speaker, that I do not and never have made a point of misleading members of this Assembly. I have had a number of conversations with many members. As my Assembly colleagues Mr Smyth, Ms Tucker and Ms Dundas have stated, we have seen the merry-go-round on this go round so many times. We were so busy that we almost fell off.

You were not misled, minister. At the time that I spoke to you I explained to you that the only way we could get this bill through was with the Liberal amendment. We made that very clear to you.

Mr Corbell: 2008.

MR SPEAKER: Order!

MRS CROSS: Unfortunately, because the minister chooses not to communicate with all of us unless he deems it—

MR SPEAKER: Mrs Cross, would you direct your comments through the chair, please.

MRS CROSS: Mr Speaker, I am directing my comments through you. I do not make a habit, Mr Speaker, of misleading any member of this place. There have been so many conversations and dates and changes and amendments and decisions toing-and-froing that it has been very difficult—

Ms MacDonald: On a point of order, Mr Speaker.

Mr Smyth: What standing order?

MRS CROSS: What standing order?

MR SPEAKER: Order! I will deal with this.

Ms MacDonald: Mr Speaker, Mrs Cross has made the imputation that other people mislead this place on a regular basis.

MRS CROSS: No, I did not say that.

MR SPEAKER: I think it is a point of debate, Ms MacDonald.

MRS CROSS: I did not imply that at all. Mr Speaker, as I said, the minister's amendment moves my amendment by one month. Okay. As I said, I hope this is not a cynical political exercise. I think this is for the greater good of the community. We should be working together for this and not bunkering down in party politics to win points.

I encourage members to support both the bill as a whole and my amendment, which will give us a reasonable timeframe to allow the exemptions to expire and the clubs and pubs time to adjust. This will provide the people we represent good smoke-free enclosed public places.

In conclusion, Mr Speaker I must thank the Parliamentary Counsel for its support and its hard work in putting this together. They are the quiet achievers in many of the things that they are asked to do, which at times are insurmountable. I must extend my sincere thanks to them.

I would also once again like to thank all the members in this place for finally working together to move forward on what is a very serious community health issue. I thank the Assembly. Thank you, Mr Speaker. I commend the bill to the Assembly.

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.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MRS CROSS (5.01): Mr Speaker, I move amendment No 1 circulated in my name *[see schedule 1 at page 4372]*. I do not need to speak to the amendment as I said everything I need to say in my speech during the in-principle stage debate.

MR CORBELL (Minister for Health and Minister for Planning) (5.01): I move amendment No 1 circulated in my name *[see schedule 2 at page 4373]*. This amendment seeks to amend Mrs Cross's amendment No 1.

Mr Speaker, I want to make it perfectly clear: Mrs Cross misrepresented me in her grandstanding speech during the in-principle stage debate. Mrs Cross sought to suggest that I claimed that her bill commenced the removal of the exemption period at the end of 2008. That is not what my press statement says. My press statement refers to Mrs Cross's and the Liberals' proposal to remove the exemptions from the end of 2008. It does not refer to her bill. I am sure she understands the difference between a bill and a proposal.

Mr Speaker, Mrs Cross's grandstanding on this issue has been extremely disappointing, because as late as 9 pm last night Mrs Cross outlined to me that her position was to support a phase-out at the end of 2008.

Mrs Cross: I told you that was the Liberals' amendment.

MR CORBELL: Mrs Cross indicated she would be supporting the Liberal Party's amendment.

Mrs Cross: As did the Greens and Democrats.

MR SPEAKER: Order, Mrs Cross!

MR CORBELL: Mr Speaker, Mrs Cross can protest all she likes—

Mrs Cross: Mr Speaker, the minister is misrepresenting me. This is an imputation.

MR SPEAKER: Mrs Cross, if you wish you can come back to that later as a personal explanation. Mr Corbell, please stick to the subject matter of your amendment and direct your comments through the chair.

MR CORBELL: Yes, Mr Speaker. Mr Speaker I have outlined those circumstances to explain why the government has moved this amendment today. This amendment was moved because it is the earliest practicable date that exemptions could be ceased without impinging on exemptions already granted. Exemptions are still being granted because the existing legislation gives no discretion to the minister's delegate. The existing legislation requires that exemptions must be granted if premises meet certain criteria and they must

be granted for a period of three years—not up to three years, not greater than three years, not less than three years but three years. That is why exemptions continue to be granted. So I say to the more paranoid amongst us that there is no conspiracy.

Mr Speaker, the proposal to go to an end date of 1 December 2006 is based on that exemptions issue and it is also in response to the proposal as agreed by Mrs Cross, the Liberals, the Greens and the Democrats to a phase-out at the end of 2008. There is no way Mrs Cross can escape it: that is what she was proposing as late as about two hours ago.

It is, of course, a proposal which was characterised by Smoke Free Australia as a shameful sell-out—in fact, an "outrageous sell-out" were their words; a move by non-government MPs in the Assembly to delay smoke-free workplaces until 2008. They said that they were shocked at this development and they outlined that it would be a disaster for public health in the ACT. What does that say for the appropriateness or the effectiveness of Mrs Cross's so-called consultations? What does it say for her judgment as to the appropriateness of a timeframe to get that sort of endorsement from organisations including the AMA, the Cancer Council of Australia, Action on Smoking and Health, the ACTU and the unions that represent workers in the hospitality industry?

Mr Speaker, that is why the government indicated, and still continues to indicate, that this could have been handled much better. It could have been handled through a process which allowed due consideration through an independent regulatory impact statement and then members making their judgment based on those informed pieces of research. However, Mrs Cross has chosen to go for gold, and that is understandable when she is going to be struggling for re-election in Molonglo and she needs all the headlines she can get. But that does not necessarily make for good law making.

That said, the most appropriate timeframe, if members of this Assembly are interested in expediting the removal of the exemptions regime, is to do it as soon as possible, and to do it as soon as possible means doing it on 1 December 2006. I commend the amendment to members.

MS DUNDAS (5.07): The Democrats will be supporting the amendment put forward by Mr Corbell. I would like to clarify a few issues that Mr Corbell raised in his speech. The Democrats are keen to see this legislation passed; we are keen to see an end to smoking in enclosed public spaces. The Democrats' policy position—and this is quite clear—calls for this to happen as soon as is practicable at a common end date.

Without the government's support for this legislation, which as late as yesterday evening was not forthcoming, the only way that this legislation was going to be passed was with the support of the opposition, and the only way to my understanding that the opposition was going to support this piece of legislation was with an end date of 2008.

Because the government was unwilling to come to the table on this piece of legislation and because the Democrats and, I understand—and I do not want to misrepresent my colleagues—the crossbench were keen to see this legislation passed, we had to negotiate with the opposition to find an end date that was suitable. Obviously 2008 is not necessarily as soon as is practicable, but in a political context yesterday it was as soon as is practicable.

Today, because the government decided to come to the table and put forward its own amendment of 1 December 2006, which is almost a week after I believe the current exemptions run out, it is technically as soon as is practicable, and that is why I am supporting the amendment for 1 December 2006.

MR SMYTH (Leader of the Opposition) (5.09): Mr Speaker, the opposition will not be supporting Mr Corbell's amendment. I had intended to move my own amendment but Mr Corbell got the call first so I will not have the opportunity to do so because, of course, Mrs Cross's amendment will have already been amended.

I just want to go back to the process that has taken place in respect of Mr Corbell's amendment. How can you place any trust in what the minister says when in the course of a day we are going to adjourn, then we are going to December 2006, then we are going to adjourn, then we are going to have an earlier date if he can do it, then he stands up and says, "I didn't really mean there was going to be an earlier date," particularly after the Deputy Chief Minister had to race down here and box his ears metaphorically and say, "You're not making that commitment"? So then he jumps up to give an explanation that he actually meant it was perhaps the exemptions that might be wound back earlier, but that would depend. It just means an exemption from Minister Corbell is not worth the paper it is written on. There is no certainty in this process.

I think what we ought to be doing is aiming to bring all of the community together. I think everybody acknowledges that smoke-free places are something we all should be working towards as quickly and as practicably as we can with the benefit of all in mind. That is why we proposed November 2008. We appreciate that is going to go down. I just wish to highlight the cynical nature in which the minister has conducted himself today and over the past week.

Mr Corbell's amendment to **Mrs Cross's** amendment agreed to.

Mrs Cross's amendment, as amended, agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 14, by leave, taken together and agreed to.

Clauses 15 to 21 taken together.

MRS CROSS (5.12): I move amendment No 2 circulated in my name *[see schedule 1 at page 4372]*.

MR CORBELL (Minister for Health and Minister for Planning) (5.12): Mr Speaker, I move my amendment No 2 *[see schedule 2 at page 4373],* which seeks to amend Mrs Cross's amendment No 2.

Mr Corbell's amendment to **Mrs Cross's** amendment agreed to.

Mrs Cross's amendment, as amended, agreed to.

Clauses 15 to 21, as amended, agreed to.

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

Bill, as amended, agreed to.

Occupational health and safety awards

Ms MacDonald, pursuant to standing order 128, fixed a future day for the moving of the motion.

Mr Noel Phillip Cheney—award

MR SMYTH (Leader of the Opposition) (5.14): I move:

> That this Assembly gives its congratulations to Mr Noel Phillip (Phil) Cheney for being awarded the NW Jolly Medal, the highest honour of the Institute of Foresters Australia, and commends Mr Cheney on his contribution to the ACT in the area of bushfire behaviour and management.

Mr Speaker, standing in my name on the notice paper is a motion concerning one Noel Phillip Cheney. He would be very upset if he ever heard you call him Phillip because Phil Cheney is a very ordinary Australian, a very ordinary Canberran, who goes about his job in the most exemplary way.

Phil's years of support to the forestry industry of Australia and to forests around the world is to be recognised tomorrow evening when he receives the NW Jolly Medal. The NW Jolly Medal is awarded by the Institute of Foresters of Australia, and the citation of the award will read:

> Awarded as the Institute's highest and most prestigious honour for outstanding service to the profession of forestry in Australia.

Mr Speaker, Phil Cheney became a forester in 1963, and so 40 years later in 2003 his profession is to recognise a man who in that 40 years has been a student, forester, teacher, researcher, author, lecturer, firefighter, adviser and scientist. He even managed to find time to become a husband to Cynthia and a father to three children as well as remain a very active member of the Institute of Foresters of Australia.

It is interesting to reflect on his history, because this is a man who, although born in Ballarat, moved to Canberra where he received in 1963 a Diploma in Forestry from the former Australian Forestry School. From there he has just gone to what can only be described as lofty heights. In 1963 he was a forestry officer grade 1. He is a man who started at the bottom and worked his way up. He worked at the Forestry Research Institute and his first project was to establish a watershed research subsection and carry out research into stream turbidity and sediment sources in the forested catchments providing Canberra's water.

As a forestry officer grade 1 he was also in charge of the Forest Research Institute fire control subsection, where he did research between 1965 and 1972 into fire behaviour and fire control, and that included the development of prescribed burning guides and the application of aerial prescribed burning for fuel reduction in mountain forests. At the same time, he also managed to do a bit of study in his own right and in 1973 he received his degree in forestry, a Bachelor of Science in Forestry, from the University of Melbourne.

Between 1972 and 1974 he moved on to be in charge of the fire research subsection at the Forest Research Institute where he supervised research into the fire behaviour of various fuel types, including dry sclerophyll forests, pinus radiata plantations, tropical open woodlands, as well as sugarcane.

But not content with running the research, he also taught. From 1971 to 1974 he was a lecturer in a part-time capacity at the Australian National University's forestry department. He taught forestry fire control, unit D17—I am sure all of the foresters who have been through the ANU would remember—to third year students studying for their degree in Bachelor of Science (Forestry).

Then he moved to the CSIRO. In 1975 through to 1980 he was a senior research scientist in the CSIRO's Division of Forest Research, where he carried out research into fire behaviour and spread mechanisms in grassland and forest fuels. He was also a consultant to other scientists in the CSIRO, undertaking fire effect research on various ecotypes ranging from alpine woodlands to arid zone woodlands.

From there he moved on. From 1981 to 1985 he was the senior research scientist and project leader of Project Aquarius. Those who have had any contact with bushfire fighting in Australia would know about Project Aquarius. It was a specially funded project to investigate the effectiveness of large air tankers in Australia. Research included investigations into the behaviour of high intensity fires; suppression effectiveness of various chemical fire retardants; the psychological performance of firefighters; as well as other areas.

After that, from 1985 through to 1989 Phil was still at the CSIRO Division of Forest Research. He became the Principal Research Scientist. He was also the Director of the National Bushfire Research Unit, a mission orientated research program within the Division of Forest Research which received support from the CSIRO and outside agencies.

The unit had seven professional, six technical, as well as administrative staff. The unit carried out research in four main areas, which were: research into fire behaviour to understand how bushfires spread in the natural environment; research on suppression technology; research on fire meteorology; and research on management systems. The unit also provided experts to carry out consultancies in these areas.

The unit was incorporated into the Division of Forestry and Forest Products in 1989 as part of the internal restructuring of the CSIRO, which leads us to the period 1989 to the present where, as part of the CSIRO Division of Forestry and Forest Products, Phil Cheney was the Senior Principal Research Scientist and project leader on bushfire

behaviour and management. That unit was tasked with undertaking research into fire behaviour, to understand how bushfires spread in the natural environment and to develop models to predict the behaviour of fires and important fuel types.

It also did research on fire meteorology to better understand weather phenomena affecting bushfires, using numerical simulation and field validation. As well, the unit carried out research on management systems using fire behaviour knowledge to develop better and safer bushfire management. Phil Cheney currently holds that position. I think that is an outstanding summary of one man's career.

The interesting thing about Phil Cheney is that he is normally self-effacing. I have heard some anecdotal stories about Phil around the trade. If you talk to foresters you find that the man is certainly somewhat of a legend among foresters and firefighters. One conversation that I heard of went something like this, Mr Deputy Speaker. Two fellows talking, one said to the other, "So what do his peers think of him?" The reply was, "He has no peers." This is an individual in a class of his own. When you talk about bushfires in Australia, he is the man.

Another anecdote went something like this. When two firefighters were discussing a problem, they had come up with an option and one firefighter said to the other, "Did you get a second opinion?" He said, "No I didn't." The first guy said, "Why not?" The second said, "Well I asked Phil Cheney. I didn't need one." Everybody that I know of who gets advice from Phil Cheney is normally accepting of that advice.

Mr Deputy Speaker, tomorrow night, Thursday 20 November 2003, Phil Cheney will be at the annual general meeting of the Institute of Foresters of Australia. There will be a dinner after that meeting and that is where Mr Cheney will be presented by IFA president, Ian Barnes, the NW Jolly Medal for his 40 years of service to his chosen profession. This award will recognise a great Australian, a great Canberran and somebody who is worthy of recognition from his community, from his profession and from this Assembly.

I have moved this motion today so that we as part of his community and certainly as members of the Assembly can say to Phil, "Well done. We thank you for what you have done and we acknowledge the amount of work you have done and the contribution you have made to your community."

MS DUNDAS (5.22): Mr Deputy Speaker, I would just like to quickly add my congratulations to Mr Cheney, a very deserving winner of the NW Jolly Medal. As Mr Smyth has outlined in great detail, Mr Cheney is an outstanding scientist in the field of fire management and quite correctly has the label of one of Australia's leading bushfire experts. In the last 10 months he has been regularly called on to provide advice and make submissions to the various inquiries into recent bushfires. As well, over many years he has been called on to give advice on bushfire events.

I think it is important that the Assembly, in recognising Mr Cheney's winning of this award, is recognising the science community. It is very rare that we stand up here and talk about the pride that we have in thinkers and scientists. We often move motions in support of the great sporting achievements of Canberrans, such as the Capitals, the

Eclipse and the Brumbies, but we very rarely talk about the great scientists we have here in the ACT. Recently the *Business Review Weekly*, I believe it was, put forward a list of people it considered to be the top 10 thinkers in Australia, and it was pleasing to see three Canberrans on that list. I think it is important that we take the time to recognise the contribution of thinkers and innovators to in the community.

The ACT is lucky in that it offers outstanding facilities and opportunities for people to excel in the scientific world, whether that be in agriculture, information technology or, in the case of Mr Cheney, bushfire management.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (5.24): Mr Deputy Speaker, as the minister responsible for ACT Forests, I rise today to acknowledge the announcement by the Institute of Foresters of Australia that they have awarded the NW Jolly Medal to Phil Cheney. I would make one comment about Mr Smyth's motion, which I support, and that is that, while the motion commends Mr Cheney on his contribution to the ACT, I think that could well read to Australia, and more widely. Let us incorporate that as our intention.

The Jolly Medal is the Foresters Institute's highest and most prestigious honour, which is awarded for outstanding service to the profession of forestry in Australia. The award will be presented by Mr Barnes, president of the institute, at their AGM dinner in Canberra tomorrow night.

As all Canberrans now know, fire is an important but sometimes devastating part of our natural environment. Our bushfire firefighters put in an enormous effort each year to protect our communities and limit the damage. One of the tools for safe and effective firefighting is having a sound understanding of the science of fire behaviour. This understanding has largely been developed by the work of bushfire scientists who have been based here in Canberra.

Alan MacArthur developed much of the early knowledge base, including the famous MacArthur fire danger meter. Phil Cheney worked with Alan MacArthur in the early days and then continued on with this important research in the National Bushfire Research Unit. It is fitting that Phil Cheney has been awarded the Jolly Medal by the Institute of Foresters in recognition of his contribution to the development of Australia's bushfire knowledge.

His predecessor, Alan MacArthur, another professional forester, was also awarded the Jolly Medal in 1978. Members may not be aware that the director of ACT Forests, Tony Bartlett, is currently a member of the board of the Institute of Foresters of Australia and he advises me that this award is made only to those who have truly made outstanding contributions to their profession. Fire is a very important part of forest management and over the years professional foresters have made great contributions both to the science of fire behaviour and the practice of forest fire management. Phil Cheney has made a significant contribution to this work throughout his career and is a worthy recipient of the Jolly Medal.

MR SMYTH (Leader of the Opposition) (5.27), in reply: Mr Deputy Speaker, I thank members for their support of the motion. Mr Wood is right—perhaps I should have

broadened the contribution made by Phil Cheney to not just the ACT but to Australia and, indeed, the world. This man is an international figure in what he does.

I think it is part of the special fabric that is Canberra that people like Alan MacArthur, who came up with the fire index, invented the fabulous wheel and did some of the fundamental work on this issue, have tutored and trained foresters like the then young Phil Cheney. You can see the value that places like the ANU Forestry School and the CSIRO have in the culture of forestry in this country. If they are turning out products like Phil Cheney, the profession is secure into the future.

It is important, as Ms Dundas said, that we go beyond recognising just sporting teams. Sporting teams are a really important part of the social fabric within the city. So are some of the institutions. I was pleased some months ago when the Assembly supported me in calling on the government to run a function to honour the War Memorial when it was included three times in the hall of fame in the national tourism awards. I think we need to broaden our approach and include scientists, authors, poets, artists, volunteers and social workers in the praise that we give out here. It is often easy to get caught up in the hype of acknowledging sporting teams. Everybody loves their sport and we will acknowledge another great sporting team on Saturday night when the Australians whop the English.

But I would like to see us broaden what we do and that is why I have brought on this motion today—to thank Phil Cheney for his contribution to our society; to acknowledge and praise his efforts in raising the professionalism and the knowledge that is needed for his industry and for his co-workers.

On a personal note, I thank him for the occasional bit of advice that he has offered to the ACT government over the years. I say thanks for the work that he has done. Having said that, I thank the Assembly for their support.

Question resolved in the affirmative.

Affordable housing for low-income earners

MS DUNDAS (5.30): I seek leave to amend the motion I placed on the notice paper by removing part 3, which related specifically to solar hot water systems. I understand that some members are concerned about how that part would impact on the work being done by the Planning and Environment Committee. I apologise for pre-empting that process and I am happy to remove part 3 to deal with those concerns.

Leave granted.

MS DUNDAS: I move:

> That recognising the need to increase the availability of affordable housing in the ACT, this Assembly calls on the ACT Government to investigate:
>
> (1) land tax concessions for landlords providing affordable and suitable housing for low-income earners;

(2) more effective financial incentives for the installation of energy and water efficient appliances or other measures in rental properties;

and report to the Assembly by June 2004.

I have moved this motion asking the government to investigate concessions on land tax for landlords providing affordable housing because I do not believe enough is being done to increase the supply of private rental properties that low-income people can afford to rent. Because the task of making housing more affordable, particularly through alterations to the land tax system, would be complicated, I am only asking the government to investigate ways that the scheme could be altered to make investing in property more affordable in the ACT. For instance, a complication that I recognise is that concessions will be needed only while we have a rental shortage that makes rental costs unaffordable for low-income people. Considering our reliance on the land tax as part of our revenue base, it would not be desirable to create a system that resulted in a dramatic fall in land tax revenue if prices in the rental market collapsed and rents became more affordable again. But, as I am sure you are all aware, rents in Canberra have spiralled upward over the last few years. A few months ago, the *Canberra Times* reported an increase of 17 per cent in the preceding year, driven by an acute and ongoing shortage of rental properties.

Rent increases are certainly outstripping increases in household income. The ACT government relies on substantial revenue from land tax paid by private landlords, but I believe this is impacting adversely on the supply and affordability of rental housing. And we need a land tax concession scheme that encourages landlords to buy and let out properties at affordable rent prices.

There is no question that landlords have been making substantial capital gains on investment properties which have far outstripped required outlays on interest payments, rates, land tax and other charges. However, these gains are not realised until the property is sold. For many property investors, finding the spare money to service costs on an investment property is a real challenge. A land tax bill of up to $4,000 puts a rental property investment beyond the reach of many middle income earners, and the possible removal of negative gearing would make property investment even more of a struggle for many.

There are a number of ways that the impact of land tax on affordability could be mitigated. One option is an up-front concession for landlords providing cheaper rents, possibly repaid at the time a property is sold. This would minimise loss of revenue. But it is just one of the options that I think the government should be investigating.

I believe that any concession needs to be targeted only at properties at the low end of the market, and the level of concession needs to have some relationship to the rent the landlord would forgo to be eligible for the concession, or act as a sufficient incentive for investors to choose to purchase lower value investment properties rather than more expensive properties. A reason I think that a land tax concession scheme would increase the number of properties available at affordable rents is the additional benefits that a landlord would gain by offering a property at slightly below the level that the market will bear. This gives landlords a larger number of applicants to choose from and it reduces the period that a property is vacant between tenants. This often means that the landlord is

better off financially when offering a lower rent, once vacant periods, property damage and skipped rent are taken into account.

It is also important to recognise that the ACT is the only jurisdiction where land tax is imposed on rental properties no matter what the value of that property is. In New South Wales, the tax does not affect properties with an unimproved value of less than $205,000. In Victoria the minimum threshold is $125,000, and in Queensland it is $200,000. So in these jurisdictions land tax is not a cost that landlords offering affordable housing usually have to deal with. Higher land tax thresholds based on either improved or unimproved land values could be an alternative way of addressing the problem of private rental market prices.

Low-income tenants cannot afford to be paying a surcharge of $3 or more on their weekly rent, and they cannot afford exorbitant electricity and water bills. The market is not delivering enough affordable rental housing, so government intervention is needed. I know when we have had debates like this before, the government has said the market takes control—the market is as the market does and the government cannot intervene in the market. I want the government to investigate whether or not it can, through the provision of land tax, actually make a difference to how private rental market prices are going.

When tenants can access cheaper weekly rents, they usually end up paying a lot extra to cover the costs attributable to poor insulation and inefficient electrical appliances. And, while the government has strongly promoted rebates for home owners in relation to how they make their housing more energy efficient, at present there is no financial incentive for a landlord to spend money on measures that lower overall living costs for tenants. That is why the second part of my motion calls for incentives for landlords to install energy and water efficiency measures in rental dwellings—to bring down the overall cost of housing—because, as we know, when we talk about affordable housing, we are not just talking of the amount that is paid on rent or on mortgage repayments. We are looking at the whole cost of living in that property, which includes electricity bills, water bills and gas bills. And because so many of the rental houses in Canberra are inefficient to heat, the electricity costs are a lot higher.

The report of the affordable housing task force shows that there are about 3,800 households in the private rental market who are in housing stress. Land tax measures and incentives for energy and water efficiency could help reduce the number of households experiencing housing stress. I believe that the government is best placed to do this investigation and determine the best way to alleviate the negative effect of land tax on the supply of affordable private rental housing.

So my motion calls for the government to investigate and to report to the Assembly by June 2004. It gives them six or seven months to complete a study, to see whether or not it is feasible to have a land tax concession scheme and whether or not it will impact on the provision of affordable private rental in the ACT.

We need the government to look at what is going on with land tax, and in the private rental market, and to be brave enough to say, "Well, maybe we can make a difference in the market". That is what my motion calls for. I hope the Assembly sees this motion for what it is. It is starting a process for an investigation into how we can intervene in the

private rental market. The private rental market is nearly 20 per cent of housing in the ACT, and, when so many in the private rental market are experiencing housing stress, I think the government should be looking at what can be done to help alleviate that stress.

When we are talking about the private rental market, it is also important to recognise the number of students who access the private rental system, because of the lack of dedicated student accommodation. An increasingly large number of students are living in poverty conditions because they cannot access adequate housing. So let us look at what is going on in the private rental market and how we can make it better. That is what this motion calls for today, and I hope that the Assembly can support it.

MRS BURKE (5.40): Mr Speaker, I commend this motion from Ms Dundas relating to the affordability of housing. While it may be difficult to argue that any single policy or other factor results in reductions in affordability of housing, the other side of the coin is that different policies can add to that problem. One of these policies is the imposition of land tax. We have heard the analysis of the relative impact of land tax on the availability of housing in the ACT, so I will not repeat any of that material now. But members will recall that the Leader of the Opposition recently raised the issue of the impost created by the unacceptably high levels of stamp duty on conveyancing as an impediment to people accessing housing in the ACT. Again, it is unlikely that stamp duty is a determinant in the availability of housing, but there is no doubt that when aggregated with other imposts it exacerbates the problem of making housing more affordable.

There is another important aspect to this debate on which I want to spend a few minutes. This relates to the way in which we as a legislature should implement policies such as taxation measures. While supporting the intent of this motion, I want to offer some specific comments on the matter of possible land tax concessions. I believe it is essential to consider the impact of taxing measures as two discrete policy decisions—and, with the Treasurer sitting opposite, I hope he will listen to this bit and give his response.

Using land tax as an example, the first policy decision should be to achieve the objective of implementing a land tax policy in the most appropriate and straightforward manner possible. The question of considering how to ameliorate the impact of that taxing measure should be undertaken completely separately. The integrity of the taxing policy itself—in this instance, land tax—should remain intact. The consequence of this approach to policy making should be that the provision of concessions to lessen the impact of the tax is done in a way that does not make the original policy more complex than necessary and that enables the concessions to be targeted to specific groups in our community. In practice, this would mean that, on the one hand, the government would implement a land tax policy which would set the framework for the imposition of this tax and, as necessary, set out other components of the measure to give proper effect to the government's intentions. On the other hand, if the government decided that there were some groups that should not be subject to the full extent of the land tax, the concessional arrangements should be provided separately from the land tax policy itself.

The concessions would be available for specific categories of people—for example, to people whose household incomes fall below a certain threshold—and the concessions would be provided as a payment of some amount of compensation, through the remission of part of the land tax or in some other way.

By using this principle to implement taxation measures, the legislature will be ensuring that the fundamental taxing measure is not made unnecessarily complex through adding provisions, setting thresholds and rates remission and so on. We are all well aware of the Commonwealth's income tax legislation, an essentially simple concept that has been made extraordinarily complex over many years of seeking to provide for special circumstances or different conditions. As a nation, we now have income tax legislation that is effectively incomprehensible to the ordinary person and is the domain of people with very specialised knowledge. I recognise that this is an extreme example, but the message remains. It is not a good approach to making taxation policy to combine the policy framework with provisions for concessions.

I have made these comments to provide a context in which to consider the proposal from Ms Dundas for the provision of what she has described as land tax concessions. I am not suggesting that there shouldn't be such concessions, but rather that any concessions that may be provided are done separately from the land tax policy itself.

Through this approach, the land tax policy will not be made unnecessarily complex through creating boundary issues—that is, in having to determine whether someone is over or under a threshold—or other complexities. A further advantage of this approach is that any concessions that are provided against the full impact of land tax should be clearly identified in the budget and the subsequent financial statements. It would be possible for the legislature and the community to see, in relation to the land tax, to continue my example, that the full imposition of land tax should raise, say, $50 million in a given year and that, separately, the value of concessions provided against that policy might be $5 million. Through this approach, it will be possible for governments, the Assembly and the community to evaluate both the impact of the taxing measure itself and the magnitude of the concessions that have been provided.

I believe that this is the approach we, as a legislature, should adopt when considering such proposals as the one we have from Ms Dundas today. Through this approach, we should enhance understanding in the community of the taxing measure and of any associated concessions, and we should enhance the administration of both the tax policy and the concession regime. Of course, there may be some people who would wish to see the greatest possible complexity in public policy. Is this the lawyer's argument? But I would argue that this is not an appropriate approach to policy making in relation to taxation measures.

I certainly commend the motion, and I also commend the approach that I have outlined as the way we should proceed if Ms Dundas's motion is successful.

MS TUCKER (5.46): The Greens will be supporting this motion. Affordable housing is a very pressing need, and I think we all agree on that. Research into just how to encourage more affordable housing is, if not plentiful, at least certainly available. Ms Dundas proposes in this motion that the government investigate targeted land tax concessions to encourage landlords to provide affordable and suitable housing to low-income earners. This is similar, in a way, to my proposal that negative gearing could be better targeted to encourage lower-rental properties being built, developed and purchased.

I do not want to talk at length here because we have another debate coming up on affordable housing more generally. I would just note that there is much the government could do. Privately provided rental housing can be affordable, but it is less reliable as a supply than is public housing or community housing, which has that social mix as an explicit rationale. Nonetheless, it is important to consider as many means as possible to encourage and support affordable private rental, such as through the mechanisms that Ms Dundas has proposed, and I am very happy to give the Greens' support.

The second point in Ms Dundas's motion should remind the government of its commitments at various times to work with landlords on water efficiency and energy efficiency measures. Again, I have to remind members of the Water Wise scheme and suggest that useful consideration could be given to implementing this scheme and to tailoring it to make it attractive to landlords.

If we are to meet our greenhouse targets, as we must, then providing the incentives, making the changes easy and, if need be, actually paying for the changes really will be a benefit to the whole community in the end. Targeting the scheme to ensure similar changes in rental properties would, as Ms Dundas said, give another much-needed break to low-income tenants who, it is true, often struggle to cover the gas or electricity bill as well as things like food and telephone.

Public housing should not be excluded from this analysis. Just an aside and to illustrate this point, I have recently been talking to an older man living on an old age pension who described how difficult the increase in the public rental income cap from 20 to 25 per cent made things for him and for other pensioners. What may appear to be a small amount of money for some people in the ACT was the difference between possible and not possible for this person. It is really very difficult to live on the low incomes that pensioners have to live on.

In conclusion, I will just say that I do not want to speak at length on this point because we are going to have a much fuller debate on the whole issue of affordable housing, but I support this motion.

MRS BURKE (5.49), by leave: I move:

> After "report", add "on the above and the implementation of recommendations of the Affordable Housing Taskforce".

Mr Quinlan: Mr Speaker, I raise a point of order—I don't know whether it should be at this stage. The motion itself relates to financial assistance, and all of a sudden it is now about reporting on the affordable housing task force. I do think it is a quantum leap in extending the motion, which members should understand creates a whole lot of work—for others of course—and I really think that this particular amendment should be ruled out of order.

MR SPEAKER: Mrs Burke has leave to move an amendment, so I will let her move it, and then, if you want to raise your point of order again, we can deal with it.

MRS BURKE: Thank you, Mr Speaker. I am moving this amendment because, while most of Ms Dundas's motion is useful, it seemed a trifle bitsy when we consider the voluminous report of the affordable housing task force published this year. This amendment merely seeks an update on the action on and implementation of the task force recommendations for the information of members, and I think it is highly relevant given that the wording in Ms Dundas's motion is: "… recognising the need to increase the availability of affordable housing in the ACT".

MR SPEAKER: Did you have a point of order, Mr Quinlan?

Mr Quinlan: Yes, Mr Speaker. I submit that this amendment is out of order in as much as it is not particularly relevant to the motion itself. The motion talks about incentives and concessions, and then all of a sudden we have gone to a whole different process, which is on foot, I have to say, the affordable housing task force—and some reports have already been given, and more will be given. I seek your ruling that this goes well beyond the spirit of the original motion.

MR SPEAKER: Can I take that on notice while the debate flows in relation to this matter. Mrs Dunne, do you want to speak in relation to the point of order?

Mrs Dunne: Yes, I do, Mr Speaker.

MR SPEAKER: Well, do so now.

Mrs Dunne: Mr Speaker, I think it is worth noting that the amendment asks the government to report on where it is with the affordable housing task force recommendations. It only relates to the sentence at the end. We are not asking the government to do any further investigation. And that it is entirely within the spirit of "recognising the need to increase the availability of affordable housing".

MR SPEAKER: Having had time to take a couple of deep breaths about this, I have taken the view that, pursuant to standing order 140, every amendment must be relevant to the question which it proposes to amend. Now I know that somebody will leap up soon and say, "Well, it is relevant. It says 'affordable housing' somewhere and this is about affordable housing." But the real question—and this is a matter which has been dealt with by me and previous Speakers—is about how far it widens the scope of debate on a particular issue.

The question that is before us from Ms Dundas is about land tax concessions for landlords and more effective financial incentives for the installation of energy and water efficiency appliances and so on. What Mrs Burke seeks to do is to have the government report on the affordable housing task force which, my guess is without knowing the full detail of that, is a report which would be complex and quite wide in scope.

So I rule this amendment out of order because it just widens the scope of the motion far too much.

Mrs Dunne: On the ruling, Mr Speaker, without wanting to appear to dissent from your ruling, which I do not, I would like to raise with you the issue that there have been a

number of amendments moved, especially on private members day, in the last little while that have significantly changed the extent and the intent of motions. Rather than debate it here, I would actually like to raise with you formally that the way that amendments are handled in this place, and the way amendments are introduced, should be considered as a matter perhaps for the Administration and Procedure Committee. There are some issues there that need to be addressed.

MR SPEAKER: Well, I can only deal with them as they are put to me, Mrs Dunne, and I think this is consistent with earlier rulings in relation to these matters. But other amendments which are moved are accepted by the chair principally because, while they may well be alternative propositions, they do not seek to widen the scope in such an expansive way as this particular proposal does. But I take your point, and if you wish to raise it before the next meeting of the Administration and Procedure Committee, it would be a welcome debate.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (5.57): I have to say, I do accept that this is just the sort of daft notion that will get up in this particular Assembly. And I want to make a couple of observations.

First of all, there was the way it was presented—that this could be a temporary system, it is just a kind of a start, maybe we will just have a look around to see what might be done. Those are really good terms of reference to give an administration!

While I mention the term "administration", there is, by my view, a very important operational principle here, and it has to do with this place, and the relationship of the administration to the executive. The administration is responsible to the executive by virtue of the administrative orders. This type of motion, which has been brought to this place I think once before in this Assembly, asks the administration to serve two masters. It puts the administration in a virtually impossible position.

The administration is required to, and should, provide the executive with frank and fearless advice. However, it cannot at the same time depart from its role as advisers to and servers of the executive to turn around and give frank and fearless advice, which is I assume is what you expect, to the Assembly.

As I said, it is just the sort of daft thing you would still ask for, but, anyway, I need to make the point that you are in fact corrupting the process. We have a committee structure in this place which is designed for this Assembly to do its work. I was involved in that, and I can happily claim to have done during the last Assembly more than the average member of this place did in its committee work.

I note in this Assembly that we are not so strong on committee work. You have resiled from consultation on the budget, and now we see, at repeated opportunities: "I want my name in the paper. I want to care about affordable housing. I'm not doing any work. What will I do? I will put out a press release and I will demand that the government does some work for me. I've got no earthly idea of what I want". You presented a dog's breakfast in terms of what it might be—where it might start, where it might go. The administration has to decide that. This is appalling. This is dumbing down this Assembly.

Now, let us go to the process itself. The proposal is to investigate land tax concessions for landlords. Now, did anybody that wants to propose or support this bother to think through and say, "Would that work, with whatever experience I do have?" or "I might go and ask somebody who has some experience". "Could this actually work? Would it be in any way a practicable solution, or do I not give a damn—as I do not give a damn as to the workload that I put on administrators? Who cares? That's all they're there for." It is directionless. What are you going to do when you get that report? You are going to have to examine the question all over again.

What if they take, in the investigation, the wrong turn on day 1? What if some of our enlightened administrators believe, as I do, that it is a daft proposal in the first place?

Mrs Cross: He said it again—daft.

MR QUINLAN: Yes. Daft, daft, daft—how's that? I am happy with that. So you are asking administrators to make qualitative decisions along the way, to put some proposal together. You have got to form your own proposals. That is what you are here for.

Mr Pratt: Don't get excited.

MR QUINLAN: I am just trying to make a point. I just thought that, once in my life, having sat in this place and been frustrated by what I view as the dumbing down of this place, I might just say so once. And with this proposal, even the proponent has got no idea whether it is likely to work or not. It was "sort of kinda, it might make a start". Let me tell you, we have an administration that works very hard. We have an administration that does not have an inexhaustible array of resources that can absorb something like this—which could be any size. You have your job. Do your job. Do not come in here and say, "Let me get my name in the paper, because I care and I have a heart. I'll write this. I'll stand up and say 'I don't know whether it'll work,' but I'll leave others to clean up the mess."

This is—I can't think of any other word—an entirely daft proposition, and just the sort of proposition that I expect you lot to vote for. I move the following amendment:

> Omit "ACT Government", substitute "Public Accounts Committee of the ACT Legislative Assembly".

MRS CROSS (6.05): Firstly I wanted to congratulate Ms Dundas for raising what is an extremely important issue. The affordable housing issue in the ACT is a serious matter, and I think she should be commended for bringing it on as a motion in this place, contrary to the minister's ridiculous comments, because they can only be classified as ridiculous. Mr Corbell described them earlier as grandstanding—which is really not like you, Ted.

Mr Quinlan: Sometimes, when it gets this bad. This is bad—bad administration.

MRS CROSS: Yes, I know, it is a hard day. I think that we need to ignore the terms "corrupting process", "daft, daft, daft" and "dumbing down" because sometimes, as

people say, you say what you see in the mirror in the morning. I think that, rather than making light of what Ms Dundas has done, we should in fact look at this seriously.

I understand that many of the members in this place have taken this motion seriously, and I think she should be commended for bringing it on. If the government is not happy with this motion, then rather than using ridiculous language to criticise Ms Dundas and impugn her character, it should come forward with something that is productive and just as good.

I suppose what I would look for in a minister is saying, "Well, I understand the sentiment of Ms Dundas's motion. Perhaps we could look at doing this", rather than criticising it, knocking it down and basically pretending it never existed. I think that this Assembly should support this motion, given that affordable housing is very serious in the ACT. It is a serious problem, and once again I congratulate Ms Dundas for bringing it on.

MS TUCKER (6.07): I won't be supporting this amendment. The argument from Mr Quinlan is interesting. He seemed to be saying that the Assembly did not have a role in suggesting particular ideas or putting up proposals that government could follow up. I do not understand where that argument is coming from. I think the Assembly often puts up proposals for resolving issues that we deal with in the ACT. Mr Quinlan said, "Do the work". Well, Ms Dundas has come up with a particular suggestion, which she has asked to be further investigated by the government. Mr Quinlan seems to be putting the argument that somehow this is a direction to the administration and that that is inappropriate. I think that is what he was saying. The wording of the motion is calling on the government, and that is what we do all the time. If Mr Quinlan does not want to seek advice from his public servants on it, that is his choice, but the point is that we are asking the government to consider this as one way of addressing the lack of affordable housing in the ACT. It is an idea.

Mr Quinlan is saying that it is a silly idea, and too vague an idea. But I do not think it is silly and I do not think it is vague. It is suggesting that you look at incentives to produce a situation where investors will want to invest in low-cost rental accommodation. I have made a similar suggestion in terms of negative gearing being targeted in that way. It is quite normal to think about ways of providing incentives of different kinds to encourage business particularly, but community as well, to take actions which are in the public interest.

Now, this seems to me a perfectly reasonable idea. It is not a new idea. When we had the debate on high quality sustainable design, Brendan Smyth raised the idea that there could be concessions or incentives—economic rewards of various kinds—to encourage developers to do the right thing in terms of high quality sustainable design. From memory, I think he was suggesting concessions on fees. So that was the same idea. It is about using economic incentives to produce an outcome that is in the public interest, and I think it should be perfectly reasonable for a government to take that suggestion on and have a look at it. I reject the arguments that Mr Quinlan has put.

In his amendment he also suggested that the Public Accounts Committee could do it. He has done that before in a similar motion, where once again he did not feel that it was appropriate for the Legislative Assembly to make suggestions about work that the government could do, which the majority of the Assembly believed would be in the

interests of the ACT community. Mr Quinlan seemed to resent that. He said that that was not the role of the Assembly and that his administration was already working very hard and could not deal with it.

But I think the point has to made that, in this Assembly, there is the capacity for the Assembly to request that the government do certain things, and tonight again a majority of members will request that the minister actually consider this question. In a democracy, it is a powerful statement that the majority of members think this could be an important idea; it is worth looking at. There is a bureaucracy supporting the government of the day, which is equipped to look at these issues in the public interest. It is not particularly reasonable to suggest that the crossbench, or the opposition for that matter, are going to have the resources available to them to do this work.

As Mrs Cross said, even if Mr Quinlan thinks that it is not a particularly good idea, there is no harm in him being a little bit more civil in his response to the idea. Also, even if he personally does not think it is a good idea—and I respect his understanding of the issues—why not be open enough to actually look at it as a possibility? As I said, it is not a novel idea. It is not something that the government has never done before. And it is worth looking at. So I will not be supporting the amendment to refer the matter to the Public Accounts Committee, and I will be supporting the motion.

MRS DUNNE (6.13): I rise in support of Ms Dundas's motion, and to congratulate Ms Dundas on the fact that she keeps the issue of housing affordability before our minds, not just today but on a regular basis. Housing affordability is a crucial question in this town. As the inquiry into poverty conducted by the previous government found, one of the biggest single indicators of poverty is housing, and one of the most efficient ways of addressing people's poverty is addressing their housing.

So, after employment, housing is the single biggest issue that affects people. Yet we have this motion pooh-poohed in this way, as is constantly the case with this government when we talk about housing affordability. We had it here already today in question time when Mr Quinlan did his Economics 101 put-down sort of thing about discussion on housing affordability. This is what happens all the time.

There are a multitude of issues that relate to housing affordability. Many of those have been raised by Ms Dundas today. There are others. They are the issues of stamp duty and the municipal costs that impact on housing affordability, which the Housing Industry Association has raised most effectively over the last six or eight months. And the minister for housing is not the least bit interested in housing affordability.

Ms Dundas needs to be complimented on this. Housing affordability is a very important issue and, as I have said, it is multi-faceted. The impact on rent of land tax is a very important issue which we must address. I have to say that the Treasurer again gets awarded the pompous git of the day award for his spectacular dummy spit over this one. Does he not understand that, when he talks about the bureaucracy, this is a public service?

Mr Pratt: Was it this dummy?

MRS DUNNE: That one. It was that one. When he talks about the public service, he is actually talking about the public service, not the executive service. And what this is about is service to the community. But this government is not interested in service to the community; it is about grandstanding and having its own way. It is also, as Ms Tucker said, a very closed-minded government.

How many times do open-minded, fair-thinking people come to an issue and think, "Sounds a bit hokey, but let's explore the issues"? And sometimes you might come up with something that surprises you. Even you, Mr Quinlan, could be surprised at what an investigation like this might find. You might find something that could be done that would be of service to people who are poor and doing it tough in this town.

Mr Quinlan: So might you if you worked on the committees.

MRS DUNNE: And on the subject of committees, the most insulting thing that could be said in this place to the people who are sitting here is that we are not really strong on committee work. The people who moved and are supporting this motion work their tails off on committees, and we produce damn good work. It might be inconvenient to you, and I am getting pretty used to the idea that this government ignores most of what comes out of committees. I am used to it, because I think at my first meeting as a committee chairman with a minister the minister said, "Get used to being ignored, Mrs Dunne."

We are not going to go away because you will not do what we want or we suggest. We all are going to continue to do our work. We are pretty strong on committee work, because these committees work hard and they are diligent. The fact that you do not like what we say is not the same thing.

Getting back to the substantive issues of this motion, I am a bit regretful that Ms Dundas deleted part 3 of her original motion, because I do not have the opportunity to say what a completely silly idea the current solar hot water scheme is and how it does not work, but I am sure I can say that on another day. Finding financial incentives to encourage landlords to produce and maintain more energy-efficient and water-efficient houses is a very important issue. We have seen many instances where having a cold house, or having a house that is very expensive to run, outside the issue of how much rent you pay, is one of the things that drives people into poverty. Canberra is a very cold place for probably six months of the year, and some of our older housing stock is entirely inappropriate for the climate. And there are many people who live in this town not in comfortable centrally heated conditions, but in cold and miserable conditions for many months of the year.

Most of the people I know who are students, or who have studied in this town, have lived in the dreadfully cold student houses, where you have a little bar radiator here and you put on your earmuffs to go down the corridor to the loo because it is so cold. This is how people live in houses for many months of the year in the ACT. It is an interesting thing, given the talk about keeping in Canberra the university students who come here. One of the reasons they do not stay is that their experience of Canberra is so miserable because of the housing conditions in which they live. If we could do something to address that, we might keep living here some of the intellect that we train here. If we are talking about

a clever capital and a creative city, why cause these people to go interstate when they could stay here if they just had a better experience of the housing stock?

There are many things that could be done. One of the things that the Liberal opposition has done, I am proud to say, is adopt a policy which would allow for the financing of energy-efficient measures in both privately owned and rented accommodation. It would make it possible for landowners who are landlords to actually make an investment and get a return on it. At the moment there is no incentive. It is not the only incentive system that is around, but so far it is the best one that I have seen. I am proud that the Liberal opposition has adopted it as part of its policy for the next election, and that it will be implementing it come November 2004. I commend the motion and encourage members to support it.

Amendment negatived.

MS DUNDAS (6.21), in reply: I thank members for their contribution to the debate today. I would like to reiterate the point of this motion: it is to call on the government to undertake an investigation. Through the debates some ideas have been put on the table that can be used in that investigation. Mr Quinlan said that he thought that calling on the government to do an investigation was daft. I do not want to revisit the debate but perhaps he should have a word to Mr Hargreaves and all of the members of this Assembly who supported the motion we passed this morning which called on the ACT government to investigate the conditions of casual workers. It is something that we do regularly, and even members of Mr Quinlan's own party move motions like that.

If we remove all the extra bits that came with the debate and look at the issues, I think today's debate has again put on the record this Assembly's concern about affordable housing and what the government is doing to address it. It has brought to the fore the conditions of affordable housing in the private rental market, which so far has actually been left out of the debate when we are looking at affordable housing. It has asked the government to find a way to address these concerns, and it has put forward some ideas that can make part of that investigation move forward.

I look forward to the report in June 2004 and hope that it has with it some conclusions and some recommendations so that we can actually make a difference. That is what I see as part of this Assembly's role, and I thank the members of this Assembly for their support in continuing that work today.

Question resolved in the affirmative.

Adjournment

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

> That the Assembly do now adjourn.

CRASH scheme

MRS BURKE (6.23): I asked Mr Wood a question today in question time and he appeared to not know how he had responded in his correspondence to me. So for the

public record and to refresh Mr Wood's memory as to what he said, I would like to table the following documents: my media release of 8 October, which I alluded to; a text copy of the minister's media release dated 8 October, following my media release; and a letter from—

MR SPEAKER: You will need leave to table that.

Mr Wood: I recall a recent incident when documents that were tabled had in them some severe criticisms of a member. If they are media releases that have been in the public domain, Mr Speaker, I think I would support leave.

Leave granted.

MRS BURKE: Thank you, Mr Speaker. Yes, these are documents that have been in the public domain. They are media releases that have been out, including Mr Wood's. They are my media release, Mr Wood's media release and a letter from Mr Wood returning correspondence of mine of 8 October. Thank you.

Anti-smoking legislation

MRS CROSS (6.24): Mr Speaker, I want to take this opportunity to thank some people that I did not thank when the anti-smoking bill was voted on earlier. I learned after the bill went through that there were a number of people in the department of health that had done some extensive work for some time for the government, especially for the health minister, relating to the smoking issue. In particular, I wanted to acknowledge senior tobacco policy officer Margo Goodin and her team.

I actually met Margo only this afternoon after the whole thing was finished, and it would have been nice if the minister had been a little bit more open about the whole process a long time ago. We perhaps could have got this bill through in a conciliatory way with a unanimous vote.

I also wanted to pay a special thanks to my staff. Helen Moore was extremely helpful and supportive through this whole process, even though the bill was on the table and had been in the pipeline before she started with me. I want to thank Helen Moore and Andrea Kelly.

I also wanted to pay special thanks to Brendan Smyth for being extremely helpful and cooperative in this process. It was a very good opportunity to work closely with him, and also with Ms Tucker and her office, who were extremely helpful and cooperative, and very positive and supportive. That was very encouraging to me. I also thank Ms Dundas.

I look forward to working on future bills, with everybody in this place, in a more conciliatory way. I hope that, if we do all have good ideas to put on the table, we will work together, rather than in an adversarial way, in doing things that are good for the community.

Mr Phil Cheney

MS TUCKER (6.26): I was caught up with something earlier and I did not get down to the chamber in time to join the debate on Mr Smyth's motion on Phil Cheney. So I want to quickly now make a few comments about that motion and join in with other members in congratulating Mr Cheney. I think it is good to see people being congratulated for scientific work. Scientific work is very complex, particularly the area of fire behaviour, and obviously it is an essential area of research in this dry land.

Mr Cheney is one of what I understand to be a fairly small number of scientists who work in this area, sometimes with different conclusions and asking different questions, as is always the case in scientific research. I am pleased that we had a motion recognising this scientific contribution, as we often have recognition of sporting achievement in this place. I commend Mr Cheney's contribution to the ACT in the area of bushfire behaviour and management, as he has contributed to the general scientific debate and knowledge.

Much like democracy, the strength of scientific knowledge rests on active participation from many, involving scrutiny, careful assessment, debates and testing of different perspectives and evidence. The ACT benefits, along with the rest of Australia, from this lively debate and from Mr Cheney's contribution to it. In saying this, of course, I am not necessarily making any general statement about supporting his conclusions and views over other scientists' work. I just want to put on the record that I appreciate and acknowledge the contribution and energy he puts into the area.

Question resolved in the affirmative.

The Assembly adjourned at 6.28 pm.

Schedules of amendments

Schedule 1

Smoking (Prohibition in Enclosed Public Spaces) Bill 2003

Amendments moved by Mrs Cross

1
Clause 2
Page 2, line 5—

omit clause 2, substitute

2 Commencement

(1) This Act (other than part 4) commences on 1 January 2007.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

(2) Part 4 commences on the day after this Act's notification day.

2
Part 4
Page 10, line 1—

omit part 4, substitute

Part 4 Amendments of Smoke-free Areas (Enclosed Public Places) Act 1994

15 Legislation amended

This part amends the *Smoke-free Areas (Enclosed Public Places) Act 1994.*

16 Annual fees
New section 9 (6)

insert

(6) Despite subsections (1) to (5), for a certificate of exemption that ceases to have effect less than 2 years after it is granted—

(a) the occupier must pay to the Territory the fees determined for this subsection under section 22 within the time determined by the Minister; and

(b) if a fee payable under this section is not paid in accordance with the determination, the Minister may cancel the certificate.

17 Section 11

substitute

11 Duration of certificates of exemption

(1) A certificate of exemption ceases to have effect 3 years after the day the certificate is granted.

(2) However, a certificate of exemption that is granted after the notification day for the *Smoking (Prohibition in Enclosed Public Places) Act 2003* ceases to have effect on the earlier of—

(a) 3 years after the day the certificate is granted; and

(b) 1 January 2007.

Schedule 2

Smoking (Prohibition in Enclosed Public Spaces) Bill 2003

Amendments moved by the Minister for Health

1
Amendment 1
Clause 2 (1)—

omit

1 January 2007

substitute

1 December 2006

2
Amendment 2
Clause 16 Section 11 (2) (b)—

omit

1 January 2007

substitute

1 December 2006